

STATE OF COLORADO

EXECUTIVE CHAMBERS

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Bill Owens
Governor

May 31, 2002

The Honorable Colorado House of Representatives

Sixty-Third General Assembly
Second Regular Session
State Capitol Building
Denver, CO 80203

Ladies and Gentlemen:

I am filing with the Secretary of State the following act:

HOUSE BILL 02-1420, CONCERNING THE PROVISION FOR PAYMENT OF THE EXPENSES OF THE EXECUTIVE, LEGISLATIVE, AND JUDICIAL DEPARTMENTS OF THE STATE OF COLORADO, AND OF ITS AGENCIES AND INSTITUTIONS, FOR AND DURING THE FISCAL YEAR BEGINNING JULY 1, 2002, EXCEPT AS OTHERWISE NOTED.

Approved in part and disapproved in part on May 31, 2002, at 9:20A.

It is my constitutional obligation to review the general appropriations bill and exercise the line item veto when necessary. While I have approved House Bill 02-1420 (the "FY 2002-03 Long Bill") as a whole, I have vetoed a large number of headnotes, footnotes, and line items within the bill. Pursuant to the Colorado Constitution, I have filed copies of the vetoed items from this bill, with my objections, with the Secretary of State.

I am faced with a difficult decision regarding the FY 2002-03 budget. The budget presented to me by the General Assembly does not reflect the reality of lower revenues. Revenues began declining in October 2001, yet the Joint Budget Committee continued to appropriate up to the maximum limit for both FY 2001-02 and FY 2002-03. The guiding fact is this: despite revenues being down 13 percent this year, next year's budget increases spending 7.3 percent. This, as I have said before, is a 20 percentage-point swing away from fiscal reality.

At the core of this problem is the inclination to treat the 6 percent General Fund appropriations limit as a floor instead of a ceiling. The Joint Budget Committee worked hard to guarantee 6 percent spending growth as if this were commanded at any cost. Yet, there is no question that I have a constitutional duty to assure a balanced budget. As a result, even if this bill appropriates to the legal limit, our Constitution does not allow the State to spend beyond its means.

No Colorado family could take this same approach with its household budget. Imagine one of our constituents who, faced with a 13 percent drop in his income, decided to increase his spending

while ignoring family income. We would view him as woefully irresponsible, and he would garner little sympathy.

Yet this is Colorado fiscal policy in 2002.

Beyond the precipitous imbalance between spending and revenue that is at the heart of this budget, the Legislature has also decided to use \$1.2 billion in one-time revenues to balance the budget and to support ongoing programs. This only worsens the hole that the Legislature and the Governor must dig Colorado out of next year.

If this budget would have been presented to me on the date it should have been – April 12th – I would have vetoed the budget in its entirety and requested that the General Assembly lower appropriations in order to balance the budget. To veto the budget at this date, however, is futile at best. I believe that a special session would produce a document little different than the one I have on my desk today. Meanwhile, vetoing the entire budget would shut down state government on July 1, something that is obviously not feasible.

The next best step I can take for the taxpayers of Colorado is to reduce the overspending that is the hallmark of this budget. With regret, I have exercised my line-item veto authority and will require agencies to impose additional restrictions in order to balance next year's budget, as is my constitutional duty. In total, I will reduce next year's budget by \$228 million. I have vetoed roughly \$46 million out of the state's budget bill. Furthermore, all agencies except K-12 education will be required to restrict approximately \$140 million (or 4 percent) of their FY 2002-03 General Fund appropriations. I will require departments to delay increases in provider rates until February 2003, at which time we can evaluate as to whether there are sufficient revenues to fund the increases (\$12 million), and I will require capital projects that are currently frozen to remain frozen in the next fiscal year, a \$30 million to \$35 million savings. These actions are in addition to \$640 million of reductions already taken in the current fiscal year. In the 17 years prior to my tenure as Governor, the line item veto power was used sparingly on General Fund items – only three times for a total of \$1.5 million. In the FY 1999-00 budget, I vetoed \$25.4 million of General Funded capital projects and now must veto additional amounts in order to help balance the budget.

Let me make two key points about these actions. First, I would have preferred to merely reduce many of these line items rather than veto them in entirety. However, such a constructive option was not available to me.

Second, despite what some members of the Joint Budget Committee have said, none of these vetoes or restrictions will allow General Fund dollars to flow to transportation. The budget in the Long Bill does not devote *one single cent* of General Fund money to transportation and my line item vetoes will not change that fact. **The line item vetoes have everything to do with upholding the State Constitution that requires a balanced budget and will have no impact on transportation funding.**

The following text explains my vetoes to the Long Bill:

VETO AND COMMENT ON HEADNOTES, FOOTNOTES, AND LINE ITEMS

The Constitution allows me to exercise line item vetoes on the general appropriations bill. I have exercised this power with regard to headnotes and footnotes that I believe violate the Constitution and/or do not meet with my approval. Some sections of the FY 2002-03 Long Bill violate Articles III and V of the Colorado Constitution. The bill contains some items that inhibit the ability of the Executive Branch to administer appropriations or which constitute substantive legislation.

Article III of the state Constitution provides for the separation of powers between the Executive and Legislative branches. The Legislative Branch has broad powers concerning the appropriation of state funds. The Executive Branch of government has the inherent responsibility and authority for administering the government. Therefore, the legislature's power does not include the ability to attach conditions in the Long Bill that intrude into the executive functions of state government. Colorado General Assembly v. Lamm, 704 P.2d 1371 (Colo. 1985); Anderson v. Lamm, 195 Colo. 437, 579 P.2d 620 (1978).

Article V, Section 32 of the state Constitution provides that substantive legislation cannot be included in the Long Bill. The purpose of the Long Bill is to meet charges already created against the public fund by affirmative acts of the General Assembly; it may not include substantive legislation, nor may it amend or repeal a law. See also Anderson.

In vetoing these provisions, I have lined through the following items:

SECTION 1: HEADNOTES

- Section 1. Definitions – general provisions, headnote (1), pages 1-2:** (1) (a) “Capital outlay” means: (I) Equipment, furniture, motor vehicles, software, and other items that have a useful life of one year or more and that cost less than fifty thousand dollars; (II) Alterations and replacements, meaning major and extensive repair, remodeling, or alteration of buildings, the replacement thereof, or the replacement and renewal of the plumbing, wiring, electrical, fiber optic, heating, and air conditioning systems therein, costing less than fifteen thousand dollars; (III) New structures, meaning the construction of entirely new buildings where the cost will be less than fifteen thousand dollars, including the value of materials and labor, either state-supplied or supplied by contract; (IV) Nonstructural improvements to land, meaning the grading, leveling, drainage, irrigation, and landscaping thereof and the construction of roadways, fences, ditches, and sanitary and storm sewers, where the cost will be less than five thousand dollars. (b) “Capital outlay” does not include those things defined as capital construction by section 24-75-301, Colorado Revised Statutes.

The state has experienced significant reductions in personal services and operating budgets during the last four years. In addition, capital funding for FY 2001-02 has been significantly reduced. Revenues have been decreasing and since October 2001, I have ordered restrictions on General Fund spending. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. Furthermore, the dollar amounts listed in this headnote have not been changed since 1977. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

2. **Section 1. Definitions – general provisions, headnote (3), pages 2-3:** (3) (a) (I) Except as otherwise provided in paragraph (b) of this subsection, “full time equivalent” or “FTE” means the budgetary equivalent of one permanent position continuously filled full time for an entire fiscal year by elected state officials or by state employees who are paid for at least two thousand eighty hours per fiscal year, with adjustments made to: (A) Include in such time computation any sick, annual, administrative, or other paid leave; and (B) Exclude from such time computation any overtime or shift differential payments made in excess of regular or normal hours worked and any leave payouts upon termination of employment. (II) “Full time equivalent” or “FTE” does not include contractual, temporary, or permanent seasonal positions. (III) As used in this paragraph (a), “state employee” means a person employed by the state, whether or not such person is a classified employee in the state personnel system. (b) For purposes of higher education professional personnel and assistants in resident instruction and professional personnel in organized research and activities relating to instruction, “full time equivalent” or “FTE” means the equivalent of one permanent position continuously filled for a nine-month or ten-month academic year. (c) The maximum limitation on the number of FTE that are allowed for the fiscal year to which this act pertains may comprise any combination of part-time positions or full-time positions so long as the maximum FTE limitation is not exceeded.

I vetoed this headnote last year. The Colorado Supreme Court concluded in 1978 that legislative attempts to administer the appropriation by placing “specific staffing and resource allocation decisions” in a general appropriations bill were unconstitutional. *Anderson v. Lamm*, 195 Colo. 437, 579 P.2d 620 (1978). The Supreme Court in so doing recognized that the ability to make staffing decisions is one of the most fundamental components of managing state government. Therefore, this headnote and its references are constitutionally void. Although I generally agree with the definition of the FTE, such a headnote inhibits the executive branch’s authority to administer the appropriation and is thus unconstitutional.

3. **Section 1. Definitions – general provisions, headnote (4), page 3:** (4) “Health, life, and dental” means the state contribution to employee health, life, and dental insurance pursuant to section 24-50-609, Colorado Revised Statutes. No funds appropriated for health, life, and dental shall be expended for any other purpose.

The state has experienced four consecutive years of reductions in personal services. In addition, revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

4. **Section 1. Definitions – general provisions, headnote (6), pages 3-4:** (6) “Lease purchase” means the use and acquisition of equipment under an agreement to purchase, pursuant to which payments are made for a period of longer than one year and are subject to annual appropriation. “Lease purchase” may also include payments made under the agreement for the maintenance of the equipment. No funds shall be expended for lease purchases except those specifically appropriated for such purpose. The provisions of this subsection (6) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern

Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the county departments of social services; and the low-income energy assistance block grant.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

5. **Section 1. Definitions – general provisions, headnote (7), page 4:** (7) “Leased space” means the use and acquisition of office facilities and office and parking space pursuant to a rental agreement. No funds shall be expended for leased space except pursuant to a specific appropriation for such purpose. The provisions of this subsection (7) shall not apply to the board of regents of the university of Colorado; the state board of agriculture; the board of trustees of the Colorado school of mines; the board of trustees of the university of northern Colorado; the trustees of the state colleges in Colorado; the state board for community colleges and occupational education (except for administration and the division of occupational education); the board for the Auraria higher education center; the state historical society; the Colorado council on the arts; the division of wildlife; the water conservation board; the county departments of social services; and the low-income energy assistance block grant.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

6. **Section 1. Definitions, headnote (8), page 4:** (8) “Legal services” means the purchase of legal services from the department of law; however, up to ten percent of the amount appropriated for legal services may instead be expended for operating expenses, contractual services, and tuition for employee training. No funds shall be expended for legal services except those specifically appropriated for such purpose. The provision of this subsection (8) shall not apply to the departments of education, higher education, transportation, and the risk management fund in the department of personnel.

I vetoed this headnote last year. Legal services expenditures are not discretionary in protecting the interest of the state and its citizens. Limiting the departments’ ability to expend funds for these services would result in ineffective administration of the government. However, I recognize the need to contain state expenditures for legal services. I will instruct the departments to use all necessary restraint in legal service expenditures and to provide an accurate annual accounting of all legal expenditures to the Joint Budget Committee.

7. **Section 1. Definitions – general provisions, headnote (10), pages 4-5:** (10) “Operating expenses” means: (a) Supplies and materials, meaning items that by their nature are consumable and that have a useful life of less than one year or that, after usage, undergo an impairment of, or a material change in, physical condition, including, but not limited to, books, periodicals, and educational, laboratory, medical, data processing, custodial, postal, office, photographic, and road maintenance supplies and materials; (b) Current charges, meaning charges for items or services not otherwise defined in this section for which a separate appropriation is not made, including, but not limited to, charges for utilities, trash removal, custodial services, telecommunications, data processing, advertising, freight, rentals of equipment and property, storage, parking, minor repair or maintenance, and printing and reproduction, and insurance premiums, dues, subscriptions, casualty losses, commissions, royalties, interest, fees, fines, reimbursements, and payments of prizes, awards, and judgments other than to state employees as compensation; except that no funds appropriated for operating expenses may be expended for vehicle lease payments, leased space, or lease purchase unless otherwise authorized by law; (c) Capital outlay, as defined in subsection (1) of this section. (d) The cost of travel by common carrier or by state-owned or privately owned conveyance and the costs of meals and lodging incident to such travel.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

8. **Section 1. Definitions – general provisions, headnote (11), pages 5-6:** (11) “Personal services” means: (a) All salaries and wages, whether to full-time, part-time, or temporary employees of the state, and also includes the state’s contribution to the public employees’ retirement fund and the state’s share of federal Medicare tax paid for state employees. Payments for overtime shall be in compliance with rules and procedures adopted by the state personnel director. (b) Professional services, meaning services requiring advanced study in a specialized discipline that are rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state, including but not limited to accounting, consulting, architectural, engineering, physician, nurse, specialized computer, and construction management services. Payments for professional services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. (c) Temporary services, meaning clerical, administrative, and casual labor rendered or performed by firms or individuals for the state other than for employment compensation as an employee of the state. Payments for temporary services shall be in compliance with section 24-30-202 (2) and (3), Colorado Revised Statutes. d) Tuition, meaning payments for graduate or undergraduate courses taken by state employees at institutions of higher education. (e) Payments for unemployment insurance as required by the department of labor and employment.

The state has experienced four consecutive years of reductions in personal services. In addition, revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

9. **Section 1. Definitions – general provisions, headnote (12), page 6:** (12) “Purchase of services from computer center” means the purchase of automated data processing services from the general government computer center.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

10. **Section 1. Definitions – general provisions, headnote (13), page 6:** (13) “Short-term disability” means the state contribution for employee short-term disability pursuant to section 24-50-603, Colorado Revised Statutes. No funds appropriated for short-term disability shall be expended for any other purpose.

The state has experienced four consecutive years of reductions in personal services. In addition, revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

11. **Section 1. Definitions – general provisions, headnote (14), page 6:** (14) “Utilities” means water, sewer service, electricity, payments to energy service companies, purchase of energy conservation equipment, and all heating fuels.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

12. **Section 1. Definitions – general provisions, headnote (15), page 6:** (15) “Vehicle lease payments” means the annual payments to the department of personnel for the cost of administration, repayment of a loan from the state treasury, and lease-purchase payments for new and replacement vehicles. No funds shall be expended for vehicle lease payments except those specifically appropriated for such purposes. The provisions of this subsection (15) shall not apply to the departments of education, higher education, and transportation.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have

ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

- 13. Section 1. Definitions – general provisions, headnote (16), page 6:** (16) “Multiuse Network Payments” means payments to the Department of Personnel for the cost of administration and the use of the state’s telecommunications network. No funds appropriated for multiuse network payments shall be expended for any other purpose.

The state has experienced significant reductions in personal services and operating budgets during the last four years. Revenues have been decreasing and I have ordered restrictions on General Fund spending since October 2001. In order to provide flexibility for departments so that impacts in services to citizens are minimized, I am vetoing this headnote. I will direct the departments to comply with this headnote to the extent feasible. However, to the extent that this headnote might hinder the ability of departments to meet the needs of citizens, they will be allowed to spend outside of these parameters.

- 14. Section 1. Definitions, headnote (17), pages 6 and 7:** (17) Where no purpose is specified or where a special program is specified, the appropriation shall be for contractual services, tuition, and operating expenses and, only if the appropriation includes a specified FTE limitation, for personal services other than contractual services.

My actions on this headnote are for the same reasons specified in the statement related to headnote (3) regarding management prerogatives and needed flexibility to operate state government programs.

- 15. Section 1. Definitions, headnote (19), page 7:** (19) When it is not feasible, due to the format of this act, to set forth fully in the line item description the purpose of an item of appropriation or a condition or limitation on the item of appropriation, the footnotes at the end of each section of this act refer to provisions which set forth such purposes, conditions, or limitations, and such provisions are therefore intended to be binding portions of the items of appropriation to which they relate. In other cases, where clearly expressed, footnotes refer to statements which are not intended by the general assembly to be binding portions of appropriations but which are related to the indicated item or items of appropriation. Such nonbinding statements include explanations of the assumptions used in making appropriations, the general assembly’s intent with respect to future appropriations, and requests on the part of the general assembly for particular administrative action in connection with items of appropriation.

This headnote indicates that footnotes refer to provisions which set forth purpose, conditions, or limitations regarding the appropriation and states that provisions are therefore intended to be “binding portions” of the items of appropriations to which they relate. I will consider all footnotes to be advisory, not binding.

1. **Footnote 1, pages 16, 81, 179, and 268:** Department of Agriculture, Agricultural Services Division; Department of Higher Education, Governing Boards and Local District Junior Colleges, State Board of Agriculture; Department of Natural Resources, State Board of Land Commissioners, State Trust Land Evaluations and Trust Asset Management and Analysis; Parks and Outdoor Recreation; and Division of Wildlife; and Department of Transportation, Construction, Maintenance, and Operations — Pursuant to Executive Order D00699, issued July 19, 1999, and requirements of Sections 35- 5.5- 104, 35- 5.5- 110, and 35- 5.5- 112, C.R.S., the State Weed Coordinator is requested to collaborate with the Departments of Agriculture, Higher Education, Natural Resources, and Transportation and prepare a report to be submitted to the Joint Budget Committee on or before October 1, 2002. This report should identify, by Division within each respective department, total FY 2001-02 actual expenditures, by fund source, and FY 2002-03 total appropriations, by fund source, for each weed management and control project in order to provide a centralized accounting of the total annual funds expended toward these efforts.

This footnote violates the separation of powers by attempting to administer the appropriation.

2. **Footnote 4, page 17:** Department of Agriculture, Soil Conservation Board, Matching Grants to Districts — It is the intent of the General Assembly that all funds distributed from the Matching Grants to Districts line item be matched with at least one dollar federal, local, or private funds for each dollar of state funds received under this program.

The footnote violates the separation of powers by attempting to administer the appropriation. The General Assembly has no authority to appropriate federal or private funds. Furthermore, I do not believe that the state should depend on uncertain private donations to ensure these important functions are undertaken.

3. **Footnote 5, pages 17, 31-32, 43, 51, 66, 81-82, 110, 133, 143, 150-151, 153-154, 161-162, 165, 179, 193, 221, 236, 245, 259, 264, 268, and 272-273:** All departments, Totals — Every department is requested to submit to the Joint Budget Committee information on the number of additional federal and cash funds exempt FTE associated with any federal grants or private donations that are applied for or received during FY 2001-02. The information should include the number of FTE, the associated costs (such as workers' compensation, health and life benefits, need for additional space, etc.) that are related to the additional FTE, the direct and indirect matching requirements associated with the federal grant or donated funds, the duration of the grant, and a brief description of the program and its goals and objectives.

This footnote violates the separation of powers in that it is attached to federal funds and private donations, which are not subject to legislative appropriation. Placing information requirements on such funds could constitute substantive legislation in the general appropriations bill.

4. **Section 2, Part II, Department of Corrections, (2) INSTITUTIONS, (G) Superintendents Subprogram, page 22:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Contract Services	\$823,932	\$823,932				

Although I understand the need for these services, it is necessary to reduce General Fund in order to align expenditures with revenues. This line is intended to supplement \$15.3 million of similar services that are already funded throughout the Department of Corrections. Because of its discretionary nature and because we already fund a significant amount of similar services, I am vetoing this line.

5. **Section 2, Part II, Department of Corrections, (3) SUPPORT SERVICES, (F) Training Subprogram, page 25:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Advanced Special Training	\$101,515	\$101,515				

This training is in addition to \$2.04 million of training provided within the department and is therefore a supplement to existing training programs. Given the need to reduce state expenditures, I have vetoed this line.

6. **Footnote 7, pages 32, 110-111, 133, 236, 259, and 269:** Department of Corrections, Management, Executive Director's Office Subprogram; Department of Human Services, Office of Behavioral Health and Housing, Alcohol and Drug Abuse Division and Division of Youth Corrections; Judicial Department, Probation and Related Services; Department of Public Safety, Division of Criminal Justice; Department of Revenue, Motor Vehicle Business Group, Motor Vehicle Division; and Department of Transportation, Office of Transportation Safety — It is the intent of the General Assembly that state agencies involved in multi-agency programs requiring separate appropriations to each agency designate one lead agency to be responsible for submitting a comprehensive annual budget request for such programs to the Joint Budget Committee. Each agency is still requested to submit its portion of such request with its own budget document. This applies to requests for appropriation from the Drug Offender Surcharge Fund, the Sex Offender Surcharge Fund, the Persistent Drunk Driver Cash Fund, and the Alcohol and Drug Driving Safety Fund, among other programs.

This footnote violates the separation of powers by dictating the format of the budget request for the executive branch. I will direct the departments to comply to the extent feasible.

7. **Footnote 9, page 32:** Department of Corrections, Management, External Capacity Subprogram, Payments to House State Prisoners, Private Facilities — It is the intent of the

General Assembly that the appropriations made for payments to private facilities housing state inmates be used exclusively for per diem payments. The Department is not authorized to withhold funds from the per diem payments to cover major medical expenses incurred by state inmates assigned to private facilities. Appropriations made in the medical services subprogram are deemed to be sufficient to cover major medical expenses incurred by state inmates held in both state and private facilities.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. It is my hope that the Department of Corrections will be able to fund all medical services for the department out of the line item appropriation for medical services for inmates. However, the State is required to provide medical services and a request for additional funding may occur.

8. **Footnote 10, page 32:** Department of Corrections, Institutions, Utilities Subprogram, Utilities — The Department of Corrections is requested to continue the energy management program designed to reduce overall energy consumption in the department's facilities. Up to \$100,000 of the Department's utility appropriation may be for this program and a portion of these funds may be used to hire the equivalent of 1.0 FTE as an energy management program manager. The Department is requested to submit with its annual budget document a detailed accounting of any savings achieved as a result of the program and a summary of funds used to hire the 1.0 FTE.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE. I will instruct the department and the Controller to follow the legislative intent of the footnote.

9. **Footnote 15, page 33:** Department of Corrections, Inmate Programs, Community Reintegration Subprogram, Offender Re-employment Center — It is the intent of the General Assembly that no new General Fund dollars will be used for the Offender Re-employment Center and that the Department use funds received as gifts, grants, and donations for this center. Existing General Fund dollars may be used as a match for gifts, grants, and donations but shall not be used if they are to be considered maintenance of effort. Of the amount appropriated in this line, up to \$94,000 may be used for the acquisition of leased space notwithstanding the provisions outlined in head note number 7 with regard to leased space.

The footnote violates the separation of powers by attempting to administer the appropriation. The General Assembly has no authority to appropriate federal or private funds.

10. **Footnote 16, page 33:** Department of Corrections, Community Services, Parole Intensive Supervision Subprogram; and Community Intensive Supervision Subprogram — It is the intent of the General Assembly that the Department shall maintain a ratio of 1 officer to 20 offenders in these subprograms and not add additional FTE unless warranted by an anticipated increase in the offender caseload.

The footnote attempts to administer the appropriation and violates the separation of powers. The department does maintain a 1 to 20 ratio in its Community Intensive

Supervision Program and Parole Intensive Supervision Program. Furthermore, the department does not typically hire FTE if there is no caseload to support it.

11. **Footnote 17, pages 33-34:** Department of Corrections, Parole Board — The General Assembly requests the Parole Board prepare a report indicating 1. If the Parole Board believes the current level of 15 percent of parolees being placed on parole ISP is the correct level; 2. The number of inmates that would have been granted parole in FY 2002-03 if additional parole ISP slots had been available beyond the 15 percent currently authorized; and 3. The number of parolees that would have been placed on parole ISP rather than sent back to prison if more parole ISP slots had been available. The Parole Board should submit the report to the JBC by August 15, 2003.

No empirical data exist to answer the footnote request and the responses would be purely speculative. In addition, there is no physical cap on the number of ISP slots, just a funding cap, which has resulted in the number of offenders on ISP fluctuating from day to day.

12. **Section 2, Part III, Department of Education, (2) Assistance to Public Schools, (C) Grants and Other Distributions, Page 39:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Teacher Development Fund	\$1,771,625	\$1,771,625				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. While I originally proposed the Teacher Development Grant Program during the 2000 legislative session and continue to believe it is a worthwhile program, this is a grant program that can be foregone for one year without severely impacting the level of services provided to Colorado students. I am proud that during my tenure as Governor, I have been able to increase funding for K-12 education by more than 40 percent and have required accountability in the form of school accountability reports. This program was proposed at a time when the Constitution did not require a specific level of increase in K-12 funding. Indeed, prior to my term, K-12 had not been funded at inflation for more than a decade. Now, given the constitutionally required increases in K-12 funding, given that this is a discretionary item, given that this does not entail the need to lay off state employees, and given this year's need to reduce General Fund expenditures, I am vetoing this line.

13. **Section 2, Part III, Department of Education, (2) Assistance to Public Schools, (C) Grants and Other Distributions, Page 39**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Teacher Development Grant Program	\$2,000,000				\$2,000,000	

This line authorizes the department to spend \$2,000,000 from the Teacher Development Fund. However, since I vetoed the General Fund appropriation to the Teacher Development Fund (see veto number 12 above), the funding associated with this spending authority will not be available. I am therefore vetoing this line.

14. Section 2, Part III, Department of Education, (3) Library Programs, page 41:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Colorado Resource Center	\$2,299,194	\$2,299,194				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this does not entail the need to lay off state employees.

15. Section 2, Part III, Department of Education, (3) Library Programs, page 41:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
State Grants to Publicly Supported Libraries Fund	\$2,000,000	\$2,000,000				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. While I recognize the benefits of providing grants to libraries to obtain educational resources they would not otherwise be able to afford, this is a grant program and thus is not used as an ongoing source of funds for libraries throughout the state.

16. Section 2, Part III, Department of Education, (3) Library Programs, page 41:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
State Grants to Publicly Supported Libraries Program	\$2,000,000				\$2,000,000	

This line authorizes the department to spend \$2,000,000 from the State Grants to Publicly Supported Libraries Fund. However, since I have vetoed the General Fund appropriation to this fund (see veto number 15 above), the funds associated with this spending authority will not be available. I am therefore vetoing this line as well.

17. Section 2, Part III, Department of Education, (3) Library Programs, page 41:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Interlibrary Loan	\$170,091	\$170,091				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this is a discretionary item and does not entail the need to lay off state employees.

18. **Footnote 19, page 44:** Department of Education, Assistance to Public Schools, Public School Finance, State Share of Districts' Total Program Funding — The Department is requested to include in its annual budget request information concerning the Colorado preschool program. The information provided should include the following for FY 2001-02: (a) A list of participating districts; (b) the funded pupil count (FTE) allocated to each participating district and a description regarding how such allocation was determined; (c) data reflecting the ratio of each district's funded pupil count for the preschool program to its funded pupil count for kindergarten; (d) data indicating the number of three-year-old children that participated in each district's preschool program; (e) data indicating the number of children that participated in each district's preschool program for a full-day rather than a half-day; (f) data indicating the number of preschool program FTE each district used to provide a full-day kindergarten component; (g) the state and local shares of each district's total program funding that is attributable to the preschool program; and (h) whether or not each district contracted for preschool services with community providers.

This footnote dictates the format of the executive budget request and therefore violates the separation of powers.

19. **Footnote 20, pages 44 and 82:** Department of Education, Assistance to Public Schools, Categorical Programs; and Department of Higher Education, Division of Occupational Education, Colorado Vocational Act Distributions pursuant to Section 23-8-102, C.R.S. — The Department of Education is requested to work with the Department of Higher Education and to include in its annual budget request information concerning each categorical program. For grant programs, such information should include, but not be limited to: (a) The total number and dollar amount of requests received; (b) the amount awarded or distributed to each district, board of cooperative services, or administrative unit; and (c) a description of the criteria utilized to evaluate requests and to determine grant awards. For other programs, such information should include, but not be limited to: (a) The total amount distributed to each district, board of cooperative services, or administrative unit; (b) the total amount that each entity would be eligible to receive pursuant to state law and/or State Board of Education rule; and (c) a description of the method or formula used to determine the amount for which entities are eligible and to distribute funds.

This footnote dictates the format of the executive budget request and therefore violates the separation of powers.

20. **Footnote 21, page 44:** Department of Education, Assistance to Public Schools, Categorical Programs, Other Categorical Programs, Federal Special Education Grants for Infants, Toddlers, and Their Families — The Department is requested to include in its annual budget request information concerning the expenditure of federal funds provided pursuant to Part C of the federal Individuals with Disabilities Education Act for the most recent state fiscal year. Such information should include sufficient detail to identify expenditures related to the provision of direct services, by type of service.

The General Assembly has no authority to appropriate federal funds. Furthermore, this footnote directs the executive branch on how to submit its budget request and therefore violates the separation of powers.

21. **Footnote 23, page 44:** Department of Education, Assistance to Public Schools, Grant Programs and Other Distributions, State Public School Fund, Contingency Reserve — It is the intent of the General Assembly that the State Board of Education utilize the assistance of the Division of Property Taxation in the Department of Local Affairs in making a determination of school district requests for payment from the contingency reserve fund prior to approving payments from the fund.

This footnote violates the separation of powers by attempting to direct elected officials in their duties. I will instruct the department to comply to the extent feasible.

22. **Section 2, Part IV, Department of Governor, Lieutenant Governor, State Planning and Budgeting, (4) Economic Development Programs, page 49:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Production and Distribution of State Highway Maps	\$90,000	\$90,000				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this is a discretionary item.

23. **Footnote 25, page 52:** Governor – Lieutenant Governor – State Planning and Budgeting, Office of the Governor; Office of the Lieutenant Governor; Office of State Planning and Budgeting; Economic Development Programs; and Office of Innovation and Technology — Each of these offices is requested to develop and maintain an Information Technology Inventory and Asset Management Plan. The General Assembly requests that the Office of Innovation and Technology assist the offices with the development of these plans and deliver them to the Joint Budget Committee no later than October 2, 2002.

This footnote would require a substantial dedication of resources from these offices and amounts to an unfunded mandate. I will direct the offices to comply to the extent feasible.

24. Footnote 26, page 52: Governor – Lieutenant Governor – State Planning and Budgeting, Office of the Governor; and Office of State Planning and Budgeting — As part of the FY 2002-03 budget submission, the Office of State Planning and Budgeting is requested to provide a report on indirect cost recoveries from federal programs that are administered through the Office of the Governor or that are not shown elsewhere in the Long Bill. The report should include an analysis, by federal program, of: indirect costs collected in FY 1999-00 and FY 2000-01; where funds collected are spent; the potential for additional indirect cost collections in FY 2001-02 and future years; and the potential for offsetting General Fund expenditures in the Office of the Governor or other departments through these collections.

I vetoed this footnote last year. The Governor's Office is already part of the statewide indirect cost plan developed by the Department of Personnel; thus this is a redundant request. Furthermore, these federal funds are not appropriated by the General Assembly.

25. Footnote 27, page 52: Governor – Lieutenant Governor – State Planning and Budgeting, Office of the Governor, Governor's Office, Administration of Governor's Office and Residence; and Other Programs and Grants — The Governor's Office is requested to provide to the Joint Budget Committee, with its FY 2002-03 budget request, information pertaining to federal and cash exempt funds received and expected to be received. This information is to include the amount and source of each grant, any matching and maintenance of effort requirements, duration of the grant, as well as the name of the program or project and number of FTE the funds will support.

This footnote violates the separation of powers by attempting to administer the appropriation. Requesting additional information on non-appropriated sources within the Governor's Office restricts the flexibility of the Office. In addition, the General Assembly has no authority to appropriate federal money or to prescribe limits on FTE. I will instruct the department not to comply with the footnote request.

26. Footnote 28, page 52: Governor – Lieutenant Governor – State Planning and Budgeting, Office of State Planning and Budgeting — It is the intent of the General Assembly that the Commission on Information Management, in conjunction with the Office of State Planning and Budgeting, submit a priority list for all state information technology projects requested in the FY 2003-04 budget requests by November 1, 2002.

The Office of State Planning and Budgeting does not review budget requests from elected officials, the Legislative Branch, or the Judicial Branch. I will direct the Office of State Planning and Budgeting, in conjunction with the Office of Innovation and Technology, to prioritize the information technology requests of the Executive Branch departments according to programmatic priorities and to provide this report to the JBC by November 2002. However, I will not require the offices to prioritize non-executive requests in this list.

27. Footnote 29, page 52: Governor – Lieutenant Governor – State Planning and Budgeting, Office of State Planning and Budgeting — The General Assembly requests that the Office of State Planning and Budgeting provide periodic updates to the Joint Budget Committee on the

This footnote violates the separation of powers. As an elected official, it is my prerogative to direct the activities of the Office of State Planning and Budgeting. Nonetheless, I understand the importance of HIPAA efforts and will direct the OSPB to comply with this footnote to the extent feasible.

- 28. Footnote 30, pages 52-53, and 194:** Governor – Lieutenant Governor – State Planning and Budgeting, Office of State Planning and Budgeting; and Department of Personnel, Human Resource Services — It is the intent of the General Assembly that the Office of State Planning and Budgeting and the Department of Personnel work with the departments to improve the timeliness and accuracy of information about state personnel. Improvements, at a minimum, should include: personnel information being updated on a centralized computerized data base; accurate reporting of filled FTE positions; number of reclassifications that are approved; turnover rates by agency; tracking of FTE positions funded to FTE positions filled; an accurate count of part-time and temporary FTE positions; and elimination of unused FTE positions. The Department and the Office of State Planning and Budgeting are requested to submit a consolidated statewide personnel report to the General Assembly by September 1, 2002. This report should include, by line item, by Department, a summary of vacant positions, the length of time each position has been vacant, and the number of reclassifications that were approved in FY 2001-02.

For the last three years, my administration has worked diligently to provide the JBC with information on FTE within existing resources. My administration has provided the JBC with more information on FTE than any prior administration and will continue to work cooperatively with the JBC. However, the JBC must realize that the full amount of information requested in this footnote is not available and to make this information available would require significant investments in computer technology and human resources. Without these investments, the footnote constitutes an unfunded mandate. I will continue to direct representatives from the Governor's Office and the Department of Personnel and Administration to provide the requested information to the extent feasible given available data and resource constraints.

- 29. Footnote 31, page 53:** Governor – Lieutenant Governor – State Planning and Budgeting, Economic Development Programs, International Trade Office — The International Trade Office is requested to provide a report to the Joint Budget Committee, by November 1, 2002, that includes the following information: number of new and existing companies assisted; activity reports from overseas representatives and offices; number of incoming missions; and regional export activities.

This footnote requires a substantial dedication of resources from the International Trade Office and is an unfunded mandate. I will instruct the International Trade Office to provide the information to the extent feasible.

- 30. Footnote 32, page 53:** Governor – Lieutenant Governor – State Planning and Budgeting, Economic Development Program, Economic Development Commission,

General Economic Incentives and Marketing — In its annual report to the General Assembly, the Economic Development Commission is requested to provide an analysis and summary of programs and activities undertaken to assist the economies of rural areas of the state. For each project in a rural area, the report should include the following information: the location; recipient; purpose; dollar amount received from the Commission; local and/or private matching contributions; and other economic development assistance provided by the state for that project, such as job training. The report should also provide the total dollar amount provided by the Commission to rural areas, the percentage of total Commission assistance that went to rural areas, and information on any rural projects that applied for but did not receive Commission assistance.

This footnote constitutes a substantial increase in workload without additional funding. I have long emphasized to the Economic Development Commission the importance of rural economic development and will continue to do so without the need for such a footnote.

31. **Footnote 33, page 53:** Governor – Lieutenant Governor – State Planning and Budgeting, Office of Innovation and Technology — The Commission on Information Management is requested to investigate the feasibility and cost-efficiency of leasing, rather than purchasing, information technology equipment and to report its findings to the Joint Budget Committee no later than July 1, 2002. The report should: include information on the short- and long-term financial implications of leasing versus purchasing; compare the costs and benefits incurred by departments that have leased equipment and those that have purchased equipment; and provide specific criteria departments can use to determine whether they should lease or purchase equipment.

This footnote requires a substantial dedication of resources from the Office of Innovation and Technology. Furthermore, the executive branch has previously provided analysis showing that the Department of Human Services could save \$3 million by purchasing rather than leasing computer equipment and the JBC chose to provide funds for leasing instead of purchasing. Given that substantial work has been done on this issue, yet the JBC chooses to fund items in a contrary manner, I do not believe it is a wise use of staff resources to continue to provide these reports.

32. **Footnote 34, page 54:** Governor - Lieutenant Governor - State Planning and Budgeting, Office of State Planning and Budgeting and Office of Innovation and Technology -- The General Assembly requests the Office of State Planning and Budgeting and the Office of Innovation and Technology to work with Joint Budget Committee staff and departmental staff to develop recommendations for standardizing Long Bill information technology appropriations in order to achieve consistency in long bill appropriations for information technology. The Office of State Planning and Budgeting and the Office of Innovation and Technology are requested to report to the General Assembly their recommendations for such a system no later than November 1, 2002.

This footnote violates the separation of powers by directing the appropriation. I will direct the agencies to comply with the intent of the footnote to the extent feasible.

- 33. Footnote 35, page 54:** Governor – Lieutenant Governor – State Planning and Budgeting, Office of Innovation and Technology — The Office of Innovation and Technology is requested to provide a report to the Joint Budget Committee, by November 1, 2002, that summarizes statewide spending on information technology. For each department, this report should include the FY 2001-02 appropriation and actual spending for: (1) information technology maintenance; (2) information technology support personnel and related operating expenses; (3) maintenance of ongoing systems; (4) long-term information technology projects; (5) short-term information technology projects; and (6) other information technology costs.

This footnote requires a substantial dedication of resources from the OIT.

Furthermore, the data will not be available to evaluate until September 30, 2003, thus the requested date is unrealistic. As an elected official, it is my prerogative to direct the activities of my office. I will direct the office to comply to the extent feasible by June 30, 2004.

- 34. Footnote 36, page 54:** Governor – Lieutenant Governor – State Planning and Budgeting, Office of Innovation and Technology — The Office of Innovation and Technology and the Division of Finance and Procurement within the Department of Personnel are requested to provide a report to the Joint Budget Committee, by November 1, 2002, that describes steps taken to increase the ease of information technology procurement and compliance with state technology standards by state agencies. This report should include the status of: (1) the quarterly Desktop Standards, including updates on which desktop models from each vendor meet the state standards for each class of user; (2) the quarterly Desktop Standards, including updated pricing standards; (3) posting the quarterly Desktop Standards on-line; (4) updating the state pricing agreement website pages for each vendor to show the costs for models for each class of user; (5) linking the quarterly Desktop Standards internet site to the BIDs system; and (6) the availability of the comparison-shopping feature of the e-procurement system for all information technology products and vendors.

This footnote requires a substantial dedication of resources from the OIT and therefore administers the appropriation; further there is no e-procurement system in place.

- 35. Footnote 37, pages 54, 67, and 111:** Governor – Lieutenant Governor – State Planning and Budgeting, Office of Innovation and Technology; Department of Health Care Policy and Financing, Executive Director's Office, Colorado Benefits Management System (CBMS); and Department of Human Services, Office of Information Technology Services, Colorado Benefits Management System (CBMS) — Representatives of the Commission on Information Management are requested to monitor the status of the Colorado Benefits Management System project on at least a monthly basis. The Commission on Information Management is further requested to periodically report its findings and recommendations on the status of the project to the Departments of Human Services and Health Care Policy and Financing and the Joint Budget Committee.

The footnote is unnecessary. The departments have already provided numerous reports on the status of CBMS to the IMC on at least a monthly basis. Furthermore, a six-member IMC subcommittee already monitors and reports on the status of the project, as does an executive oversight committee for the project. Additional reporting on the project will require resources that are not available and will divert

important resources away from successful completion of the project. I will request that the commission continue to provide the existing level of oversight and to continue to provide these reports to the JBC.

- 36. Footnote 38, page 67:** Department of Health Care Policy and Financing, Executive Director's Office — The Department is requested to submit an accounting of all line items by actual expenditure. Actual expenditure is defined as final expenditure, including post-closing payments. The Department is requested to submit this information to the Joint Budget Committee by January 1, 2003.

I will direct the department to comply with this footnote to the extent feasible. However, the footnote requires information on January 1, 2003 and Medical Services Premiums are not closed out until December 31, 2002. Thus, the Medical Services Premium portion of this report will be delayed.

- 37. Footnote 40, page 67:** Department of Health Care Policy and Financing, Executive Director's Office — The Department is requested to construct a list of its administrative contracts that are going out to bid in FY 2003-04. This information is requested to be provided to the Joint Budget Committee by no later than December 15, 2002.

This footnote presents an onerous workload requirement on the department. Approximately eleven reporting requirements were added through footnotes for the 2002-03 fiscal year, in addition to ten reporting requirements that were carried over from FY 2001-02. The department estimates that it spent 1,014 hours on footnote reporting in FY 2001-02. The number and depth of these reports are administering the appropriation. Thus, I will direct the department not to comply.

- 38. Footnote 41, pages 67 and 111:** Department of Health Care Policy and Financing, Executive Director's Office, Colorado Benefits Management System (CBMS); and Department of Human Services, Office of Information Technology Services, Colorado Benefits Management System (CBMS) — It is the intent of the General Assembly that staff employed by the Department of Human Services to oversee compliance with the Health Insurance Portability and Accountability Act also oversee compliance activities associated with the development and implementation of the Colorado Benefits Management System.

This footnote administers the appropriation. It is the intent of the executive Branch to continue to streamline and coordinate HIPAA compliance efforts, including those related to CBMS. I will ask both departments, in consultation with the Office of Innovation and Technology, the Office of State Planning & Budgeting, and the HIPAA Task Force, to develop an internal strategy for CBMS HIPAA efforts to the extent practicable within existing resources.

- 39. Footnote 42, pages 67-68 and 111-112:** Department of Health Care Policy and Financing, Executive Director's Office, Colorado Benefits Management System (CBMS); and Department of Human Services, Office of Information Technology Services, Colorado Benefits Management System (CBMS) -- It is the understanding of the General Assembly that the primary goal of the Colorado Benefits Management System (CBMS) project is to streamline several county administrative functions by creating a single, integrated, eligibility and client management system that will minimize manual and paper-intensive processes. The 1997

feasibility study that was prepared for the CBMS project included an analysis of the annual savings that would result from the statewide implementation of CBMS, estimating \$31.0 million in annual savings from all fund sources. The feasibility study did not include an analysis of the impact of medical application sites. A re-analysis in December 2000 projects annual savings of \$13.0 million. Further project changes anticipated as of March 2002 are expected to result in the level of savings being further reduced to \$12.4 million. It is the intent of the General Assembly that, once CBMS is fully implemented statewide, various appropriations will be adjusted to reflect the resulting cost savings. It is further the intent of the General Assembly that such adjustments be based on an objective analysis of the impact of the implementation of CBMS on the Department of Health Care Policy and Financing, the Department of Human Services, and county departments of social services.

This footnote attempts to administer the appropriation and violates the separation of powers.

40. **Footnote 43, pages 68 and 112:** Department of Health Care Policy and Financing, Medical Programs Administration; and Department of Human Services, Office of Behavioral Health and Housing, Administration — It is the intent of the General Assembly that the Department of Human Services' monitoring activities for the Medicaid mental health capitation program be comparable in intensity and scope to the Department of Health Care Policy and Financing's monitoring of other managed care programs. The Departments are requested to report, with their annual budget submissions, on efforts to align their approaches to program monitoring.

This footnote attempts to administer the appropriation and violates the separation of powers. The footnote violates the separation of powers by dictating the format of the executive budget request. I will direct the department not to comply with this footnote.

41. **Footnote 45, page 68:** Department of Health Care Policy and Financing, Medical Programs Administration, Health Insurance Portability and Accountability Act of 1996 (HIPAA) Implementation Contract Costs — Within this appropriation is \$11,245,436 total funds (including \$2,686,359 General Fund) associated with contract systems costs for implementation of the federal rules on Health Insurance Portability and Accountability Act of 1996 (HIPAA) transaction codes. Said funding is based on preliminary estimates provided by the contractor performing the HIPAA feasibility study. It is the intent of the General Assembly that the Department use a portion of this appropriation to secure an evaluation of the technical viability and financial appropriateness of the winning proposal for implementation of the HIPAA transaction codes from an independent expert source prior to awarding said contract.

This footnote attempts to administer the appropriation. Given the scope and complexity of upcoming HIPAA compliance efforts, I understand the General Assembly's concern regarding cost validity. However, I am also concerned that this additional requirement will unnecessarily delay the project.

42. **Footnote 48, page 68-69:** Department of Health Care Policy and Financing, Medical Services Premiums — The Department is requested to study the Medicaid reimbursements made to nursing home pharmacies serving Medicaid clients in the long-term care system. The Department is requested to study the Medicaid reimbursement level, including the ability of

such pharmacies to cost-shift. The Department is requested to submit a report concerning this study to the JBC by no later than November 1, 2002.

This report was submitted last year and it is a waste of staff resources to duplicate the information already provided. The department does not expect to receive any new information that would alter the conclusions of the previous report. As a result, I will direct the department not to comply with this request.

- 43. Footnote 49, page 69:** Department of Health Care Policy and Financing, Medical Services Premiums — The Department is requested to work with long-term care clients and providers, including home and community based services, home health, and nursing facilities to examine any issues of rate disparity and rate shortfalls within the long-term care continuum of care, to evaluate areas of greatest need affecting client services, and ways to control utilization, costs of these services, and overall growth in the long-term care system. The Department is furthermore requested to report on its final analysis and recommendations to the JBC by October 1, 2002.

This footnote presents an onerous workload requirement. Footnote 50A in the 00-01 Long Bill drove significant staff costs throughout the department. Staffing this Committee was so labor intensive that footnote 50A ultimately administered the personal services appropriation. This is a similar footnote request. I will direct the department not to comply with this footnote.

- 44. Footnote 50, page 69:** Department of Health Care Policy and Financing, Medical Services Premiums — It is the General Assembly's understanding that expenditures for Medicaid county transportation have increased significantly in the last 10 years. From FY 1991-92 to FY 2000-01, these expenditures have increased over 469 percent while caseload has increased only 22.0 percent over this same time period. To that effect, the Department is requested to research options for ensuring more efficient and effective expenditures, including rule changes for County Administration procedures or outsourcing all or part of the management and oversight functions to a separate contract. The Department is requested to include in its research and evaluation the costs and benefits of using a regional transportation broker versus other models. This report is requested to be provided to the Joint Budget Committee by no later than November 1, 2002.

A similar report was submitted to the Joint Budget Committee in the previous fiscal year. The department does not expect to receive any new information that would alter the conclusions of the previous report. I will direct the department not to comply with this footnote.

- 45. Footnote 51, page 69:** Department of Health Care Policy and Financing, Medical Services Premiums — The Department is requested to report on reimbursements for primary care physicians and to offer recommendations for changes in this area, if any. This report is requested to be provided to the Joint Budget Committee by no later than November 1, 2002.

This footnote presents an onerous workload requirement on the department. Approximately eleven reporting requirements were added through footnotes for the 2002-03 fiscal year, in addition to ten reporting requirements that were carried over

from FY 2001-02. The department estimates it spent 1,014 hours on footnote reporting in FY 2001-02. This extensive reporting requirement would divert staff resources from other efforts in this area.

46. **Footnote 52, page 69:** Department of Health Care Policy and Financing, Medical Services Premiums — The Department is requested to provide programmatic and fiscal evaluations of the current methodology for reimbursing single entry points and recommendations for any changes to the funding methodology for reimbursing single entry points. This report is requested to be provided to the Joint Budget Committee by November 1, 2002.

This is an onerous workload requirement and the footnote attempts to direct the executive branch's budget request. To the extent feasible, I will direct the department to comply.

47. **Footnote 53, page 69:** Department of Health Care Policy and Financing, Medical Services Premiums — The Department is requested to work with pharmacy providers, including institutional and community pharmacies, both independent and chains, pharmaceutical manufacturers, legislators, and stakeholders to determine a methodology to reduce Medicaid prescription drug costs, specifically the utilization and cost of such pharmaceuticals. The Department is requested to report its analysis and recommendations to the Joint Budget Committee no later than November 1, 2002.

The department has already provided extensive information regarding pharmaceutical costs and potential methodologies to reduce drug costs. Staffing this working group would drive significant meeting time and staff resources and will administer the appropriation. I will direct the department not to comply with this request.

48. **Footnote 54, pages 69-70 and 112:** Department of Health Care Policy and Financing, Medical Services Premiums; and Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs, Mental Health Capitation — The Departments are requested to provide a report on the placement of mentally ill persons in nursing homes and alternative care facilities. The report is requested to specifically address the quality and quantity of mental health services that persons with mental illness are receiving in these facilities. This report is requested to be provided to the Joint Budget Committee by November 1, 2002.

This report was prepared and submitted to the Joint Budget Committee last year. The department does not expect any new information that would alter the conclusions of the previous report. I will direct the department not to comply.

49. **Footnote 56, page 70:** Department of Health Care Policy and Financing, Indigent Care Program, Out-state Indigent Care Program, Disproportionate Share Payments to Hospitals, Pre-Component 1 Disproportionate Share Payments to Hospitals — The State currently funds three hospital reimbursements for the medically indigent that uses three distinct funding methodologies. It is the intent of the General Assembly that the Department evaluate the criteria on which current hospital reimbursements for the medically indigent programs are based. Specifically, the Department is requested to provide information and its recommendations on

streamlining the criteria in order to: (1) Make funding more equitable across all hospital providers based on services to the medically indigent; (2) maximize the use of limited federal Disproportionate Share Payments to Hospitals' dollars; and (3) minimize the expenditure of General Fund, to the extent possible. The Department is requested to provide a report on this information to the Joint Budget Committee by no later than November 1, 2002.

This footnote creates unfunded mandates and attempts to administer the appropriation. The department is already devoting significant staff resources to this issue. This extensive reporting requirement would divert staff resources from other efforts in this area. I will direct the department not to comply with this footnote.

- 50. Footnote 59, pages 70-71 and 112:** Department of Health Care Policy and Financing, Indigent Care Program, Children's Basic Health Plan Premium Costs; and Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs — The Departments are requested to report, with their annual budget submissions, on the potential for the expansion of Children's Basic Health Plan (CHP+) services to children with severe emotional disturbance. The report should specifically address: (1) Any recommended steps to expand the role of community mental health centers in identification of and service provision for CHP+ clients with mental illness; (2) the best structure for such a program, including the relative financial and management responsibilities of CHP+ health maintenance organizations versus community mental health centers; and (3) the fiscal impact of modifying the CHP+ program to provide an expanded benefit package for children with severe emotional disturbance. This analysis should take into consideration the estimated number of clients currently enrolled in CHP+ who could be expected to qualify for such a program; the estimated number of severely emotionally disturbed clients enrolled in CHP+ who now receive services at community mental health centers; and the extent to which the services such clients now receive are covered by CHP+.

An extensive report on this subject was already completed last year. The department does not expect any new significant information that would alter the conclusions of the previous report. A duplication of this effort would be a waste of staff resources. I will direct the department not to comply.

- 51. Footnote 61, page 71:** Department of Health Care Policy and Financing, Other Medical Services, S.B. 97-101 Public School Health Services — The Department is requested to provide information on any budget changes and corrections that may need to be made in the Department's administrative line items per the Department's responses to Footnote 60 of S.B. 01- 212. This information is requested to be included in the November 1, 2002, budget submission for FY 2003-04.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will direct the department to comply to the extent feasible.

- 52. Footnote 62, pages 71 and 112-113:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs; and Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs, Mental Health Capitation — The Departments are requested to provide a report to the Joint Budget Committee, as part of their annual budget submissions, that reviews their proposals and

plans for the Medicaid mental health capitation program for FY 2002-03 and future years. The report should specifically address the following issues: (1) Progress on the development of a model for setting new capitation rates; (2) the feasibility of addressing some of the inequities in rates paid in various regions of the State prior to a rebid of the program; (3) any plans to expand the program to other services; and (4) any recommendations for statutory changes.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. In addition, it imposes an onerous workload requirement on the department. I will direct the department not to comply.

53. **Footnote 63, pages 71 and 113:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs; and Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs, Capitation Performance Incentive Awards — It is the intent of the General Assembly that performance incentive awards be distributed to capitated Medicaid providers based on merit, as demonstrated through objective criteria. All funds awarded should be reinvested in community mental health services. The Departments are requested to provide information on the use of these funds as part of their annual budget submissions.

This footnote attempts to administer the appropriation and violates the separation of powers. I will direct the departments to comply to the extent feasible.

54. **Footnote 64, pages 71 and 113:** Department of Health Care Policy and Financing, Department of Human Services Medicaid-Funded Programs; and Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs, Medicaid Anti-Psychotic Pharmaceuticals — The Departments are requested to report to the Joint Budget Committee with their November 1 budget submissions on their progress toward managing Medicaid mental health pharmaceutical costs. This report should include an expected time line for planned activities, as well as estimates of the programmatic and fiscal impacts of any changes. The Departments are encouraged to pursue pilot programs to contain costs through physician education and management. The Departments are also requested to identify actual expenditures and growth projections for anti-depressant, anti-anxiety, and anti-manic medications as part of their budget submissions.

A similar report was submitted last year. The department is not expecting any new information that would alter the conclusions of the previous report. In addition, this footnote is directing the format and content of the executive budget request and therefore violates the separation of powers.

55. **Section 2, Part VI, Department of Higher Education, (8) Council on the Arts, Page 79:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Programs/Scientific and Cultural Facilities District	\$990,649	\$718,449			\$1,250	\$270,950

The primary reason for vetoing this line is the need to reduce General Fund expenditures. This is a discretionary item and grants to these arts programs go to the

metro-Denver area that already has a dedicated sales tax for these purposes. Indeed, in the most recent tax year, the sales tax generated \$38 million for arts programs in the metro-Denver area. Because there is a large alternate source of revenue, and given the discretionary, one-time nature of the funds, I am vetoing this line. It is important to note that I left the funding in the Long Bill for the arts programs that are in the rural areas of the state.

- 56. Footnote 65, page 82:** Department of Higher Education, Colorado Commission on Higher Education — For the FY 2003-04 budget request, the Colorado Commission on Higher Education is directed to submit a unified budget request representing all functions performed by the Governing Boards and Local District Junior Colleges. This request should include the independent Colorado State University agencies and the various occupational education programs under the Colorado Community College and Occupational Education System. In recognition of the state's General Fund appropriation limitation, the Commission is directed to limit the total General Fund increase requested to no more than six percent.

This footnote dictates the content and format of the executive budget submission. While it establishes a ceiling on CCHE's budget request, it also establishes a target growth rate. Furthermore, even with this footnote, the General Assembly chose to increase the department's appropriation above six percent in FY 2002-03.

- 57. Footnote 67, pages 82-83:** Department of Higher Education, Colorado Commission on Higher Education; Governing Boards and Local District Junior Colleges, State Board for Community Colleges and Occupational Education State System Community Colleges; Division of Occupational Education, Area Vocational School Support -- The Colorado Commission on Higher Education, in conjunction with the Community Colleges of Colorado and the Area Vocational Schools, is requested to conduct a study of the Area Vocational Schools. This study should include reviews of role and mission, funding mechanisms, including both operating and capital funding, and the appropriate relationship between the Area Vocational Schools and the Community Colleges of Colorado. The findings of this study, along with recommendations on any changes in the structure, governance, and funding of the Area Vocational Schools, should be submitted to the Joint Budget Committee by November 1, 2002. The costs of conducting the study should be paid from within existing resources.

This footnote entails a substantial workload increase. I will direct CCHE and the governing boards to comply with the intent of this footnote to the extent feasible.

- 58. Footnote 67a, pages 83 and 194:** Department of Higher Education, Colorado Commission on Higher Education; Governing Boards and Local District Junior Colleges, Trustees of the State Colleges in Colorado; State Board of Agriculture; Regents of the University of Colorado; Trustees of the Colorado School of Mines; University of Northern Colorado; State Board for Community Colleges and Occupational Education State System Community Colleges; Auraria Higher Education Center; and Department of Personnel, Executive Director's Office — The Department of Personnel is requested to submit, after consultation with the Colorado Commission on Higher Education and with the higher education governing boards, a report to the Joint Budget Committee by September 1, 2002, that analyzes alternatives to higher education's participation in the fleet management program. The report should identify cost-effective options that may provide more flexibility to higher education, including the scenario in which higher education is exempted from this program. The report should provide a comparison of cost estimates of the options identified.

This report was already submitted on December 31, 2001. It would be a waste of staff effort to do this report again. In an analysis of this report, JBC staff acknowledged that, "Staff does not believe there would be any additional benefit to requesting the department to submit these reports (or an updated version of them) again."

- 59. Footnote 70, page 83:** Department of Higher Education, Colorado Commission on Higher Education Financial Aid — The Department should continue its efforts to provide data on the efficiency and effectiveness of state financial aid in expanding access to higher education for Colorado residents. The Department is requested to provide to the Joint Budget Committee by November 1 of each year an evaluation of financial aid programs, which should include, but not be limited to: 1) an estimate of the amount of federal, institutional, and private resources (including tax credits) devoted to financial aid; 2) the number of recipients from all sources; 3) information on typical awards; and 4) the typical debt loads of graduates. To the extent possible the Department should differentiate the data based on available information about the demographic characteristics of the recipients.

The footnote entails a substantial workload increase and some of the information is not available.

- 60. Footnote 71, pages 83-84:** Department of Higher Education, Colorado Commission on Higher Education Financial Aid, Governor's Opportunity Scholarships — The Department is requested to submit a report to the Joint Budget Committee by November 1, 2002, comparing the retention rates of students receiving Governor's Opportunity Scholarships with retention rates for low-income students receiving other types of financial aid packages.

The footnote entails a substantial workload increase and some of the information is not available.

- 61. Footnote 74, page 84:** Department of Higher Education, Governing Boards and Local District Junior Colleges, Trustees of the State Colleges in Colorado; State Board of Agriculture; Regents of the University of Colorado; Trustees of the Colorado School of Mines; University of Northern Colorado; State Board for Community Colleges and Occupational Education State System Community Colleges — It is the intent of the General Assembly that each governing board, except the Community Colleges, may increase tuition rates by an amount calculated to generate up to a maximum of 7.7 percent additional revenue from resident students and up to a maximum of 7.7 percent additional revenue from nonresident students, not including the effects of enrollment changes. It is the intent of the General Assembly that the Community Colleges may increase tuition rates by an amount calculated to generate up to a maximum of 5.7 percent additional revenue from resident students and up to a maximum of 7.7 percent additional revenue from nonresident students, not including the effects of enrollment changes. These rates are used in order to increase spending authority for program enhancements and this is not an attempt by the General Assembly to set tuition policy. Each governing board will give consideration to establishing equity of tuition increases among the campuses and programs under the governing board's jurisdiction. In addition to the tuition increases outlined above, the General Assembly has approved an additional \$3,274,351 in tuition spending authority for the Regents of the University of Colorado as follows: \$842,384 for various tuition rate increases at the Colorado Springs campus; \$933,800 for various tuition rate increases at the Denver campus; \$1,097,000 for tuition rate increases in programs associated

with the college of business at the Boulder campus; and \$401,167 for nursing, doctor of medicine, physical therapy, and doctor of dental surgery programs at the Health Sciences Center. Also, the General Assembly has approved an additional \$878,422 in tuition spending authority for the State Board of Agriculture for programs associated with the college of veterinary medicine at Colorado State University.

Affordability is a crucial aspect of college opportunity for Colorado's citizens. The gap between high-and-low income Coloradans going to college is a glaring policy problem. At a time when Colorado's families are being buffeted by a slow economy, an across the board 7.7% tuition increase is too high. However, given the outlook of the state's General Fund budget, I also recognize the very real financial constraints facing our colleges and universities.

Therefore, I am directing the Colorado Commission on Higher Education to consult with the Governing Boards of the public institutions of higher education and to prepare a tuition and General Fund increase plan that is more in line with inflation than the legislative plan in this bill. In particular, such a plan must protect affordability and financial aid and take into account the tuition differences among institutions. This plan shall be prepared and submitted for my approval, pursuant to Section 23-1-105(3), C.R.S., no later than July 1, 2002. Through this directive, it is my intent to keep tuition and college costs in line with inflation and more affordable for all Coloradans, particularly in these challenging financial times for the state.

- 62. Footnote 76, page 85:** Department of Higher Education, Governing Boards and Local District Junior Colleges, Regents of the University of Colorado — It is the intent of the General Assembly that \$100,000 of the General Fund appropriation to the Regents shall be used to provide additional targeted resources to the Area Health Education Centers established by the CU Health Sciences Center in Greeley, Alamosa, Pueblo, and Grand Junction for treatment, outreach and education to persons with epilepsy.

The footnote attempts to administer the appropriation and violates the separation of powers.

- 63. Footnote 77, page 113:** Department of Human Services, Executive Director's Office — The General Assembly expects the State Board of Human Services to take appropriate actions pursuant to Section 26-1-121(1)(c), C.R.S., as soon as the Executive Director determines that any appropriation for payment of the costs described in paragraph (a) of said subsection (1) is inadequate. The Department and the State Board should not expect to rely on supplemental appropriations in determining what action is to be taken.

This footnote violates the separation of powers by dictating the content of the executive budget request. While I will direct the State Board of Human Services to comply to the extent feasible, supplemental requests may be necessary to assure that the needs of the state's most vulnerable citizens are met.

- 64. Footnote 78, page 113:** Department of Human Services, Executive Director's Office, General Administration, Injury Prevention Program — The Department is requested to include in its annual budget request information regarding the cost-effectiveness of this program. Such information should include: actual and planned annual expenditures for this line item, by program; the actual number of workers' compensation claims filed, by type of injury and by

program; and the related costs associated with workers' compensation claims filed, by type of injury and by program.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

65. **Footnote 79, page 113-114:** Department of Human Services, Office of Information Technology Services — The Department is requested to include in its annual budget request total information technology expenditures and, where applicable, associated FTE usage across the major budget divisions for the preceding actual fiscal year. Expenditures should be categorized as either Help Desk, Applications, Data Systems and Scheduling, Microcomputer/ Local Area Network, or Networks/Telecommunications. This report should also include actual expenditures for microcomputer leases and the number of microcomputers associated with such expenditures.

I vetoed this footnote last year. This footnote requires a substantial dedication of resources from the department. I will instruct the department to provide the information to the extent feasible within existing resources.

66. **Footnote 81, pages 114 and 194:** Department of Human Services, Office of Operations, and Department of Personnel, Finance and Procurement, Real Estate Services Program — The Departments are requested to provide a report on the state's efforts to standardize operational maintenance requirements of its facilities statewide and demonstrate how the DHS maintenance levels compare to the rest of State. Departments are requested to submit report to JBC on or before Oct. 1, 2002.

This footnote constitutes an unfunded mandate, as it would take a significant amount of staff resources away from other duties. The Department of Personnel and Administration does not have authority to direct or recommend changes in operating budgets. Therefore, I will direct the department not to comply with this footnote.

67. **Footnote 82, page 114:** Department of Human Services, Office of Operations; Office of Adult and Veterans Services, Administration, Western Slope Military Veteran's Cemetery Fund — On or before September 1, 2002, the Department is requested to provide to the Joint Budget Committee a plan for operating the Western Slope Military Veteran's Cemetery. The plan should describe the functions required to operate the cemetery, the method in which those functions will be carried out, and the estimated costs and source of funds associated with each function.

This footnote is not applicable since the function is now in the Department of Military Affairs instead of the Department of Human Services. This will require a significant workload without resources. I will direct the Department of Military Affairs to comply to the extent feasible.

68. **Footnote 83, page 114:** Department of Human Services, Office of Operations, Utilities — Up to \$100,000 of the Department's utility appropriation may be used to develop and implement a program designed to decrease energy consumption. A portion of these funds may be used to hire an energy program manager.

This footnote violates the separation of powers by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE. I will instruct the department and the Controller to follow the legislative intent of the footnote.

69. **Footnote 85, page 114:** Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs, Services for Target Clients — It is the intent of the General Assembly that all funds added to this line item beyond increases associated with a 2.0 percent community provider cost of living adjustment be distributed to community mental health centers on a formula basis that reflects the need and demand for community mental health services for indigent adult clients with serious mental illness in each region of the State. Such funds should be used to increase the number of clients served and/ or the services provided to qualified clients, with concomitant reductions in service waiting lists. The Department of Human Services is requested to provide a report to the Joint Budget Committee by November 1, 2002, concerning the use of these funds.

This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to follow the legislative intent of the footnote to the extent feasible.

70. **Footnote 87, page 115:** Department of Human Services, Office of Behavioral Health and Housing, Mental Health Community Programs, Goebel Lawsuit Settlement — Funding included in this line item represents only a portion of total expenditures for the Goebel Lawsuit Settlement. The Department is requested to include, as part of its annual budget submission, a summary of all actual revenues and expenditures for services for the Goebel plaintiff class in the prior fiscal year, including moneys from non-state sources. This report should also specifically identify all actual, estimated, and requested state appropriations for the Goebel class by Long Bill line item.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will direct the department to comply to the extent feasible.

71. **Footnote 93, page 116:** Department of Human Services, Office of Behavioral Health and Housing, Alcohol and Drug Abuse Division, Community Programs, Treatment Services, Treatment and Detox Contracts — The Department is requested to report as part of its annual budget submission, on the allocation of funding in this line item between treatment and detoxification services and to explain any changes from the prior years allocations. It is further the intent of the General Assembly that not more than 10 percent of the funding historically allocated to detoxification services or to treatment services be shifted from one purpose to the other.

This footnote attempts to administer the appropriation and violates the separation of powers. In addition, this footnote dictates the format of the executive budget submission.

72. **Footnote 94, page 116:** The Department is requested to keep the JBC informed of its plan for compliance with the *Olmstead v. L.C.* Supreme Court decision of June 1999. Funding requests

related to the Olmstead ruling are to be coordinated with the statewide plan for complying with the state's associated legal obligations, and the Department is requested to demonstrate such alignment in its funding requests. .

This footnote violates the separation of powers by dictating the content and format of the executive budget request.

- 73. Footnote 95, page 116:** Department of Human Services, Office of Rehabilitation and Disability Services, Community Services for Persons with Developmental Disabilities, Adult Community Programs — The Department is requested to require that all Community Centered Boards provide documentation on how the 5.3 percent base rate increase was applied. The Department is requested to submit a report to the Joint Budget Committee with the FY 2003-04 budget request that documents how CCBs applied the base rate increase and its affect on the following performance measures: 1) The percentage reduction in the turnover rate of direct-care comprehensive services staff; and 2) the average change in compensation packages of direct-care comprehensive services staff. The report should include any additional impact the base rate increase or additional quality assurance staff have on the quality of services in the developmental disabilities system and the Department's desired salary level for direct care and case management staff and the time line for reaching that target level.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to provide the information it determines important on the impact of the provider rate increase to the Joint Budget Committee.

- 74. Footnote 96, page 116:** Department of Human Services, Office of Rehabilitation and Disability Services, Community Services for Persons with Developmental Disabilities, Adult Community Programs — The Department is requested to survey of all individuals on the comprehensive services waiting list, in June 2002, to determine when each individual will need comprehensive services. The Department is requested to report the results of the CCB surveys in the submission of the FY 2003-04 budget request to the Joint Budget Committee.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 75. Footnote 98, page 117:** Department of Human Services, Office of Adult Health and Rehabilitation, Community Services for Persons with Developmental Disabilities, Preventive Dental Hygiene — It is the intent of the General Assembly that this appropriation be used to assist the Colorado Foundation of Dentistry in providing special dental services for persons with developmental disabilities.

I vetoed this footnote last year. This footnote attempts to administer the appropriation and violates the separation of powers. I will direct the department to comply with the footnote to the extent feasible.

- 76. Footnote 100, page 117:** Department of Human Services, Office of Rehabilitation and Disability Services, Division of Vocational Rehabilitation, Rehabilitation Programs – Local Funds Match — It is the intent of the General Assembly that the Division of Vocational

Rehabilitation actively pursue partnerships with local entities that provide matching funds for federal vocational rehabilitation dollars. The Division is requested to provide a report to the Joint Budget Committee, as part of its annual budget request, on such partnerships. The report should include a discussion of the potential for replacing General Fund support in the Rehabilitation Programs – General Fund Match line item for cash and cash exempt support in the Rehabilitation Programs – Local Funds Match line item.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. Furthermore, this requests the department to try and raise money from local entities for this state function. The state should not rely on donations for a state function that the General Assembly deems necessary. I will direct the department to comply with the legislative intent of this footnote to the extent feasible.

77. **Footnote 104, page 118:** Department of Human Services, Office of Self Sufficiency, Colorado Works Program, County Block Grants — Pursuant to Sections 26-2-714 (7) and 26-2-714 (9), C.R.S., under certain conditions, a county may transfer federal Temporary Assistance for Needy Families (TANF) funds within its Colorado Works Program Block Grant to the federal child care development fund or to programs funded by Title XX of the federal Social Security Act. One of the conditions specified is that the amount a county transfers must be specified by the Department of Human Services as being available for transfer within the limitation imposed by federal law. It is the intent of the General Assembly that the Department allow individual counties to transfer a greater percent of federal TANF funds than the state is allowed under federal law as long as: (a) Each county has had an opportunity to transfer an amount up to the federal maximum allowed; and (b) the total amount transferred statewide does not exceed the federal maximum.

This footnote constitutes substantive legislation by specifying conditions when individual counties are to transfer a greater percent of federal TANF funds than the State is allowed under federal law.

78. **Footnote 105, page 118:** Department of Human Services, Office of Self-sufficiency, Colorado Works Program, County Training; and Community Resource Investment Liaison — The Department is requested to utilize a portion of the funding provided through these line items, in addition to other available resources, for the purpose of providing technical assistance and training for county staff concerning requirements of the federal Americans with Disabilities Act and the provision of services to special needs populations.

This footnote attempts to administer the appropriation and violates the separation of powers.

79. **Footnote 106, page 118:** Department of Human Services, Office of Self Sufficiency, Special Purpose Welfare Programs, Low Income Energy Assistance Program — The cash funds exempt appropriation for this line item represents an estimate of donations the Department anticipates receiving from the Colorado Energy Assistance Foundation. It is the intent of the General Assembly that if actual cash funds exempt expenditures that are eligible to be counted as part of the State's maintenance of effort for the federal Temporary Assistance for Needy Families program exceed the appropriated amount, the Department report actual eligible expenditures to the federal government for such purpose.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to comply to the extent feasible.

80. **Footnote 107, page 118:** Department of Human Services, Office of Adult and Veterans Services, Adult Assistance Programs, Old Age Pension Program — The Department is requested to reflect in its annual budget request an itemized account of each expenditure associated with the Old Age Pension Program, including grant payments for each recipient population, state and county program administration costs, burial reimbursements, expenditures applied to any other program or computer system, and refunds and state revenue intercepts.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

81. **Footnote 110a, page 119:** Department of Human Services, Office of Adult and Veterans Services, Aging Services Programs, State Ombudsman Program — It is the intent of the General Assembly that the funds appropriated in this line item are to be expended to serve the residents of long-term care facilities, as defined in the Older Americans Act (42 USCA, §§ 3001, et seq.) and the Colorado Revised Statutes.

This footnote violates the separation of powers by attempting to administer the appropriation.

82. **Footnote 112, page 119:** Department of Human Services, Division of Child Welfare — The Department is requested to reflect in its annual budget request the gross amount of payments to child welfare service providers, including amounts that were paid using revenues other than county, state, or federal tax revenues. The Department is requested to reflect such amounts for the last two actual fiscal years.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

83. **Footnote 114, page 119:** Department of Human Services, Division of Child Welfare, Administration — In order to focus its recruitment and retention efforts on those family foster and adoptive homes that are most likely to provide appropriate placements for children and least likely to result in a disruption, the Department is requested to evaluate the success rate for various types of family foster and adoptive home placements (e.g., kinship homes, foster-adopt homes, county-administered homes, child placement agency-certified homes, etc.). The Department is requested to report its findings in its fiscal year 2003-04 budget request.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

84. **Footnote 115, pages 119-120:** Department of Human Services, Division of Child Welfare, Child Welfare Services — The Department is requested to reflect in its annual budget request

expenditures for the last two fiscal years for services that are now funded through this consolidated line item. Such data should include both the number of children for whom services were purchased and the average payment per child for the following services: Out-of-home placement care, subsidized adoption payments, case service payments related to subsidized adoptions, child welfare- related child care, and burials.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 85. Footnote 116, page 120:** Department of Human Services, Division of Child Welfare, Child Welfare Services — Pursuant to Section 26-5-104 (6), C.R.S., counties are authorized to negotiate rates, services, and outcomes with child welfare service providers and are thus not required to provide a specific rate increase for any provider. The funding provided for this line item includes an increase of \$2,809,204 based on a 1.0 percent increase in base funding. The Department is requested to provide information to the Joint Budget Committee on or before November 1, 2002, concerning how counties have elected to utilize the additional funding provided.

This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to follow the legislative intent of the footnote to the extent feasible.

- 86. Footnote 120, page 120:** Department of Human Services, Division of Youth Corrections, Community Programs, S.B. 91-94 Programs — It is the intent of the General Assembly that funds appropriated for Senate Bill 91-94 programs are to provide alternative services for juveniles determined to be at imminent risk of being placed in a detention or commitment facility and to provide services designed to reduce the length of stay of juveniles placed in Division facilities. In an effort to improve the effectiveness of S.B. 91-94 in reducing detention and commitment populations, the Division is requested to focus S.B. 91-94 funds on programs and services that will most effectively reduce populations in Division facilities, including intake screening, assessment, and case management services and other services designed to divert youth from placement in secure facilities.

This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to comply to the extent feasible.

- 87. Footnote 122, page 121:** Department of Human Services, Division of Youth Corrections, Community Programs, Parole Program Services — The Department is requested to submit a report to the Joint Budget Committee by November 1, 2002, analyzing the effectiveness of parole program services, and the impact that decreasing or increasing funding would have on the services that could be provided and the expected youth outcomes. The General Fund appropriation for this line item is based on an estimated \$983,564 in federal title IV-E revenues. It is the intent of the General Assembly that if title IV-E revenues exceed this amount, the department could apply up to \$50,000 toward the cost of preparing this report.

This footnote violates the separation of powers by attempting to administer the appropriation and by attempting to appropriate federal funds.

- 88. Footnote 123, page 121:** Department of Human Services, Division of Children's Health and Rehabilitation, Services for Children with Developmental Disabilities, Family Support Pilot — It is the intent of the General Assembly to provide 20 full program equivalent resources for 20 families to participate in the Family Support Services pilot for FY 2000-01 and FY 2001-02. The Department is requested to adhere to the statutory limitations on program administration of seven percent provided for in Sections 27-10.5-401 through 407 C.R.S., for the administration of this pilot program. As indicated in the Department's pilot proposal, at the end of two years, the Department is requested to report to the Joint Budget Committee, on the outcomes of the pilot and provide recommendations based upon its findings.

This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to follow the legislative intent of the footnote to the extent feasible.

- 89. Section 2, Part VIII, Judicial Department, (3) Courts Administration, (B) Administrative Special Purpose, Page 126:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Judicial Conference	\$85,676	\$85,676				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In periods of falling revenues, the state should cut back on expenditures for conferences. This veto does not preclude the Judiciary from having a conference, as they may pay for such a conference out of other lines given the flexibility provided them by the headnote vetoes I have also made. It is likely that this veto will reduce the amount of money spent on such a conference, however.

- 90. Section 2, Part VIII, Judicial Department, (3) Courts Administration, (B) Administrative Special Purpose, Page 126:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Training	\$190,028	\$190,028				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this is a discretionary item. This does not preclude the Judiciary from conducting training, however, as they must now pay for training out of other lines given the flexibility provided them by the headnote vetoes I have also made.

- 91. Footnote 136, page 135:** Judicial Department, Trial Courts, Mandated Costs — The Department is requested to report all court-related costs associated with death penalty cases as part of the Department's annual budget request.

The footnote requests information on only death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

92. **Footnote 142, page 136:** Judicial Department, Public Defender — The Public Defender shall provide a report on the number of hours, dollars, and FTE utilized by the office in death penalty cases during the most recently completed fiscal year. In addition, the report shall include the number of motions filed by the office and the number of motions responded to by the office in death penalty cases during the fiscal year. This report should be submitted as part of the Public Defender's annual budget request.

The footnote requests information on only death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

93. **Footnote 154, page 144:** Department of Labor and Employment, Executive Director's Office, Operating Expenses — The Department is requested to include estimated costs of computer contract maintenance agreements in its annual budget request.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

94. **Footnote 155, page 144:** Department of Labor and Employment, Division of Employment and Training, Unemployment Insurance Fraud Program — The Department is requested to investigate potential funding sources for the Unemployment Insurance Fraud Program. The Department should include the findings of this investigation in its FY 2002-03 budget request. In addition, the Department is requested to include in its FY 2002-03 budget request information on fraud detection and recovery, including, but not limited to, an estimate of the amount of unemployment insurance fraud that may have occurred in FY 2001-02, how much of this fraud was detected, and how much of this fraud was recovered.

This footnote directs the executive budget submission and is a violation of the separation of powers. The Department of Labor and Employment prepared and submitted a report to the Joint Budget Committee on this subject in November 2001. Any further effort in this direction would be a duplication of effort and not the best use of State resources.

95. **Footnote 156, page 144:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, State Operations — It is the intent of the General Assembly that, of this appropriation, \$114,707 be awarded as grants to one stop job centers that provide services to displaced homemakers.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. I will direct the department to comply to the extent feasible, while considering options to maximize the number of individuals served.

96. **Footnote 157, page 144:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, Welfare-to-Work Block Grant — It is the

intent of the General Assembly that the Department count a portion of the General Fund or Cash Funds exempt appropriated to the Department of Human Services, Self-Sufficiency, for Colorado works Program County Block Grants, as the state match for federal Welfare-to-Work Block Grant funds. However, it is the intent of the General Assembly that only that portion of such funds that exceeds the minimum federal maintenance of effort requirement for the Temporary Assistance to Needy Families program be used in such manner. In addition, the Department is requested to identify any other existing resources that could be counted as the state's match for the federal Welfare-to-Work Block Grant. Such existing resources may include, but need not be limited to: State funds appropriated for programs administered by the Department of Corrections, the Department of Education, the Department of Higher Education, the Department of Human Services, Department of Local Affairs, and the Department of Public Safety; tax credits provided to employers that hire individuals receiving public assistance; and reduced-price bus passes provided through the Regional Transportation District to individuals receiving public assistance.

The department has already done this exercise and submitted this report to U.S. Department of Labor in July 2001 and to JBC on November 1, 2001. This information showed that the department will exceed the amount necessary to match the federal Welfare-to-Work Block Grant. As such, any further effort in this direction would be a duplication of effort and not the best use of State resources.

97. **Footnote 158, pages 144-145:** Department of Labor and Employment, Division of Employment and Training, Employment and Training Programs, Welfare-to-Work Block Grant — It is the intent of the General Assembly that, when allocating the fifteen percent discretionary funds for special projects with community-based organizations, priority be given to those organizations that collaborate with the region's one-stop job center. The Department is requested to include in its annual budget request information regarding the allocation of such discretionary funds. Such information should include, but not limited to, the names of the organizations that receive discretionary funds, the amount of such awards, a description of the organizations' collaboration with the region's One-Stop job center, and an explanation of any discretionary funds awarded to community-based organizations that do not collaborate with a One-Stop job center.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. I will direct the department to comply to the extent practicable.

98. **Footnote 159, page 145:** Department of Labor and Employment, Division of Labor, Welfare Reform — The Department is requested to provide, as part of its FY 2003- 04 budget submission, a report to the Joint Budget Committee detailing the number of grievances filed, the number requiring mediation or arbitration and the outcome of each, and the amount of staff time involved in each.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

99. **Footnote 160, page 145:** Department of Labor and Employment, Division of Workers' Compensation, Workers' Compensation — The Department is requested to provide a report to

the Joint Budget Committee, as part of its FY 2003-04 budget submission, regarding the worker's compensation self-insurance program. The report should include, by employer: The annual amount of losses incurred; the annual amount of claim expenditures; the total amount of outstanding liabilities; and the amount of security held. The report should also include the number of and grounds for revoked permits and denied applications.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 100. Footnote 165, page 152:** Department of Law, Criminal Justice and Appellate, Capital Crimes Prosecution Unit — The Department is requested to report to the General Assembly, no later than October 15, 2002, on both the dollars and the FTE utilized by the district attorneys in prosecuting death penalty cases in FY 2001-02. In addition, the department is requested to report no later than October 15, 2002, on the dollars and FTE utilized within the department in assisting district attorneys in such death penalty cases in FY 2001-02.

The footnote requests information only on death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

- 101. Footnote 166, page 152:** Department of Law, Criminal Justice and Appellate, Capital Crimes Prosecution Unit — The Department is requested to report to the Joint Budget Committee, no later than October 15, 2002, on the allocation of Department resources in FY 2001-02 for death penalty cases. The report should itemize the number of hours and dollars dedicated to all aspects of the Department's work on death penalty cases, including researching and drafting, case investigation, and appearances in court. The report should also include information about the number of motions filed by the Department, as well as the number of motions responded to by the Department, in death penalty cases. The information requested should be provided for all Department units involved in prosecuting death penalty cases, including the Capital Crimes Unit and the Appellate Section.

The footnote requests information only on death penalty cases. I find it curious that the General Assembly is not interested in the costs of other types of court cases.

- 102. Footnote 169, pages 152, 179-180, and 221-222:** Department of Law, Special Purpose, Comprehensive Environmental Response, Compensation and Liability Act Contracts; Department of Natural Resources, Executive Director's Office, Comprehensive Environmental Response, Compensation and Liability Act; and Department of Public Health and Environment, Hazardous Materials and Waste Management Division, Contaminated Site Cleanups — The Departments are requested to work toward the goal of removing contaminated sites from the federal list of Superfund sites as soon as possible. In this regard, the departments are requested to cooperate in the preparation of a report on the State's CERCLA Program. The report should be prepared annually and should be submitted on November 1 with each department's budget request. This report should include detailed expenditures, by department, for CERCLA contracts, including actual, estimated, and requested funding for personal services, contract services, operating expenses, and other costs. The report should also include an analysis of long-term funding needs of the State in responding to, litigating, and cleaning up CERCLA sites, including estimated long-term maintenance costs for these sites. Finally, the report should discuss the possible downsizing of the State's CERCLA programs.

This footnote presents an expensive and unfunded mandate on the departments. I will direct the departments to comply to the extent feasible within budget constraints.

103. Section 2, Part XI Legislative Department, (3) State Auditor's Office, Page 153:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Evaluation of Changes in State Mental Health Services Training	\$40,000	\$40,000				

The intent of this funding is to track and evaluate the downsizing of Mental Health Institute beds and the development of community alternatives for individuals with mental illness. However, the amount of funding in this line is insufficient to conduct a thorough evaluation. In addition, because significant resources will be required by the Department of Human Services (DHS) to properly manage the completion of this study, I believe that DHS should have received this appropriation. Finally, because the community alternatives will only be operational for six months, it will be too early to draw major conclusions about downsizing of mental health institute beds for FY 2003-04. Therefore, I have asked the Department to examine what resources would need to be available to do a more comprehensive evaluation. Until the point in which the necessary resources can be dedicated to this study, I will direct the department to track all necessary data and to closely monitor the transition of individuals from the mental health institutes to the community.

104. Section 2, Part XII, Department of Local Affairs, (3) Division of Housing, (C) Affordable Housing Development, page 157:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Colorado Affordable Housing Construction Grants and Loans:	\$2,904,376	\$2,904,376				

I am vetoing this line because of the need to lower General Fund expenditures. It is my intent, however, to maintain this program through other revenue sources. I will direct the Department of Local Affairs to fund this amount of grants and loans for affordable housing from alternate sources available to them. Notably, the department has the ability to utilize energy impact funds for this purpose.

105. Section 2, Part XIV, Department of Natural Resources, (1) Executive Director's Office, (E) Youth in Natural Resources Program, Page 167:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Program Administration	\$113,472	\$113,472				

This program can continue to function without this funding because the department has found a business process to more efficiently administer the program. Indeed, the department requested a negative supplemental in FY 2001-02 because of improved efficiency of operation. Thus the program will continue without negative consequences even with the veto of these funds.

106. Section 2, Part XIV, Department of Natural Resources, (4) Oil and Gas Conservation Commission, Page 171:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Energy Research	\$250,000			\$250,000		

This funding, in conjunction with the associated footnote also vetoed in this bill, constitutes substantive legislation because the School of Mines does not have statutory authority to receive severance taxes. Therefore, I have vetoed this line.

107. Section 2, Part XIV, Department of Natural Resources, (8) Water Resources Division, Page 175:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Retirements	\$122,918	\$122,918				

This line was added several years ago to help the division deal with various retirement issues. Although I understand the challenges facing this division, other divisions are able to manage their retirement issues within their personal services lines. This should be especially true in FY 2002-03 since the headnote vetoes provided in this message will provide them with greater flexibility to face the challenge of their aging work force. Furthermore, this division has a very large, \$14.8 million, personal services line. Given the large personal services budget and the added flexibility in the current year, I am vetoing this line.

108. Footnote 174, page 180: Department of Natural Resources, Executive Director's Office — It is the intent of the General Assembly that the Department of Natural Resources not combine

easily separable funding requests into single decision items. If the department wishes to request multiple new projects in a single division, each request should be separately justified as a distinct decision item. Items not submitted accordingly will not be considered.

This footnote violates the separation of powers by instructing the executive branch on how to structure its decision items. I will direct the department to follow the intent of the footnote.

- 109. Footnote 175, page 180:** Department of Natural Resources, Executive Director's office, Information Technology Services, Technology Initiative — Funding for this line item is considered one-time in nature. Any future requests for funding should be made in the November 1 budget request, regardless of requested fund source.

This footnote violates the separation of powers by instructing the executive branch on how to structure its budget submission.

- 110. Footnote 178, page 180:** Department of Natural Resources, Oil and Gas Conservation Commission, Accelerated Drilling — It is the intent of the General Assembly that this line item continue to exist as long as the workload continues and revenue is available to fund these activities. If workloads decrease or revenues are insufficient, this line item and the associated FTE shall be eliminated. The Oil and Gas Conservation Commission should continue to provide in the annual budget request document an annual justification for the continuation of this line item because of continuing or increasing workloads. It is the intent of the General Assembly that this line item shall not be merged with any other line item within the Oil and Gas Conservation Commission budget.

I vetoed this footnote last year. This footnote violates the separation of powers by instructing the executive branch on how to structure its budget submission. I will direct the department to follow the intent of the footnote to the extent practicable.

- 111. Footnote 178a, page 181:** Department of Natural Resources, Oil and Gas Conservation Commission, Energy Research — Upon the execution of a memorandum of understanding between the Department of Natural Resources and the Colorado School of Mines, this funding is intended to provide support for the management and operation of the Colorado Energy Research Institute as created in Section 23-41-114, C.R.S.

This footnote constitutes substantive legislation because the School of Mines does not have statutory authority to receive severance taxes. In addition, the footnote administers the appropriation.

- 112. Footnote 179, page 181:** Department of Natural Resources, Parks and Outdoor Recreation, Established State Parks — It is the intent of the General Assembly that the Division support its FTE initiative entirely with cash funds and cash funds exempt, and that the Division spread requested increases over both FY 2002-03 and FY 2003-04, if necessary, to accomplish this intent.

This footnote violates the separation of powers by attempting to administer the appropriation. I will direct the department to comply with this footnote to the extent practicable.

- 113. Footnote 181, page 181:** Department of Natural Resources, Parks and Outdoor Recreation, Great Outdoors Colorado Board Grants — These funds are anticipated from the Great Outdoors Colorado Board, and while these funds are not subject to appropriation by the Legislature pursuant to Article XXVII, Section 5, of the Colorado Constitution, they are shown here for informational purposes. The General Assembly accepts no obligation to continue funding these FTE and programs if Great Outdoors Colorado Funds are no longer available.

I vetoed this footnote last year. This footnote implies restrictions on the Division of Parks and Outdoor Recreation regarding the receipt of funds from Great Outdoors Colorado. The General Assembly has no authority to appropriate funds from Great Outdoors Colorado.

- 114. Footnote 182, page 181:** Department of Natural Resources, Water Conservation Board — It is the intent of the General Assembly that requested changes to any standard budget item be included in the November 1 budget request. This includes, but is not limited to, leased space, capitol complex leased space, operating expenses, and capital outlay. This includes appropriations requested from the Water Conservation Board Construction Fund.

This footnote violates the separation of powers by instructing the executive branch on how to structure its decision items.

- 115. Footnote 183, page 181:** Department of Natural Resources, Water Resources Division, Personal Services — It is the intent of the General Assembly that 2.0 FTE authorized to eliminate the backlog in final permitting be eliminated at the end of FY 2006-07.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. The General Assembly has no authority to appropriate or prescribe limits on FTE.

- 116. Footnote 184, page 181:** Department of Natural Resources, Parks and Outdoor Recreation; Division of Wildlife — It is the intent of the General Assembly that the Division of Wildlife and the Division of Parks and outdoor Recreation align their processes for requesting grants from the Great Outdoors Colorado (GOCO) Board with the process of requesting appropriations from the General Assembly. Such alignment should include the process for requesting both base funding and Legacy funding from the GOCO Board. Further, the two divisions are requested to include their requests for funding from the GOCO Board by October 1, 2002, so that they may be approved no later than December 1, 2002. Finally, the two divisions are requested to submit budget amendments by the normal January deadlines to reflect any changes from the GOCO Board requests, as contained in the Department's annual budget requests, and the actual amounts awarded by the GOCO Board.

The General Assembly has no authority to appropriate funds from Great Outdoors Colorado. This footnote also violates the separation of powers by instructing the department on what to include in its budget submission. I will instruct the department to comply to the extent practicable

117. Footnote 187, page 182: Department of Natural Resources, Division of Wildlife — It is the intent of the General Assembly that the Division of Wildlife use the Wildlife for Future Generations Trust Fund to provide for the increased operating and maintenance costs of new fee title property acquisitions. In this regard, whenever the division makes a new fee title acquisition, it should concurrently seek an appropriation of funds to the Wildlife for Future Generations Trust Fund necessary to cover the long-term cost of operating and maintaining that property.

This footnote constitutes substantive legislation. I will direct the department to comply with this footnote to the extent feasible.

118. Footnote 188, page 182: Department of Natural Resources, Division of Wildlife — Any funds from the Great Outdoors Colorado Board while not subject to appropriation by the Legislature, pursuant to Article XXVII, Section 5, of the Colorado Constitution are shown for informational purposes. The General Assembly accepts no obligation to continue funding these FTE and programs if Great Outdoors Colorado funds are no longer available. The General Assembly retains authority to determine appropriations of Wildlife Cash, other State funds, and State-funded FTE used to match projects receiving funding from Great Outdoors Colorado.

I vetoed this footnote last year. This footnote violates the separation of powers. The General Assembly has no authority to appropriate FTE.

119. Footnote 191, page 195: Department of Personnel, Central Services, Fleet Management Program and Motor Pool Services — The Department of Personnel is requested to submit, after consultation with the individual departments and agencies that use the state's Fleet Management Program, a report delineating the benefit to the state and to each separate department or agency of maintaining its relationship with the Fleet Management Program. This report should include an analysis that compares (1) maintaining the Fleet Management Program in its current form with (2) reverting control of the state's fleet to individual departments with regard to purchasing, maintenance of the vehicle, insurance costs, operating costs of the vehicle, and disposal of the vehicle. This report should be submitted to the Joint Budget Committee no later than September 1, 2002.

This footnote would present an onerous requirement on the department of Personnel and Administration. The department is committed to identifying improvements in service delivery that ensure services are provided in the most efficient manner. Expending resources on this report will divert the department from providing necessary services to its clients.

120. Footnote 192, page 195: Department of Personnel, Central Services, Facilities Maintenance and Planning, Property Maintenance — The Department of Personnel, in conjunction with all affected state agencies, is requested to perform a statewide reconciliation of the square footage in each building the Department of Personnel maintains to the actual square footage that each agency occupies. The Department of Personnel is requested to provide this report to the Joint Budget Committee no later than October 1, 2002.

The department already compiled this information prior in March 2002 and provided it to the Joint Budget Committee in April 2002. Duplication of this effort would be a waste of staff resources.

- 121. Footnote 193, page 195:** Department of Personnel, Central Services, Facilities Maintenance and Planning, State Buildings and Real Estate Services Program — The Department of Personnel, in conjunction with the State Auditor's Office, is requested to perform a statewide audit concerning the compliance of building codes established by the State Buildings and Real Estate Services Program. This audit should determine if the state's departments and agencies are uniformly complying with the state's building codes during the construction of new buildings.

This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to follow the legislative intent of the footnote to the extent feasible.

- 122. Footnote 194, page 195:** Department of Personnel, Colorado Information Technology Services, Computer Services — It is the intent of the General Assembly that the Department of Personnel perform an annual mid- year review of actual usage compared to agency appropriations in order to determine the accuracy of the cost allocation billing methodology for General Government Computer Center (GGCC) services. This information should be submitted to the Joint Budget Committee for review no later than January 1, 2003, for statewide supplemental consideration.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 123. Footnote 195, page 195:** Department of Personnel, Administrative Hearings — The Department of Personnel is requested to perform an annual mid- year review of actual usage compared to agency appropriations in order to determine the accuracy of the cost allocation billing methodology for Administrative Hearings services. This information should be submitted to the Joint Budget Committee for review no later than January 1, 2003 for statewide supplemental consideration.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 124. Section 2, Part XVI, Department of Public Health and Environment, (4) Local Health Services, (A) Local Liaison, Pages 200-201:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Local, District, and Regional Health Department Distributions pursuant to Section 25-1-516, C.R.S.	\$5,348,337	\$4,960,273				\$388,064

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this is a discretionary item and amounts to a relatively small portion of local health departments budgets, about 5 percent. In a year when state expenditures may exceed revenues, it is imperative for the state to cut its supplementary funding for programs. In addition, local health agencies will receive more than \$7 million in new federal funds in FY 2002-03, thus mitigating some of the impact of this veto.

125. Section 2, Part XVI, Department of Public Health and Environment, (10) Prevention and Intervention Services, (B) Prevention Partnerships, (1) Tony Grampsas Youth Services Program, Page 212:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Prevention Services Program	\$7,594,816	\$7,594,816				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this is a discretionary grant item and agencies do not rely on this as an ongoing source of revenue. The funding is not intended to be used on a recurring basis by recipients.

126. Section 2, Part XVI, Department of Public Health and Environment, (10) Prevention and Intervention Services, (B) Prevention Partnerships, (3) Build A Generation Grants, Page 212:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Build A Generation Grants	\$425,597	\$425,597				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, this is a discretionary grant program and recipients do not rely on this as an ongoing source of revenue. The funding is intended to be one-time in nature and is not in place for use on a recurring basis.

127. Footnote 196, page 222: Department of Public Health and Environment, Administration and Support — The Department is requested to submit a report by October 1, 2002, to Joint Budget Committee listing all block grants the Department will receive for FY 2002-03 and is expecting to receive for FY 2003-04. The report should also include a description of the grant, and line items in the Long Bill each grant is being used to finance. The report should include all line items with a General Fund appropriation for which block grants could be used.

This footnote violates the separation of powers by directing the activity of the department.

128. Footnote 197, page 222: Department of Public Health and Environment, Administration and Support — The Department is requested to submit a report by October 1, 2002, to Joint Budget Committee listing all block grants the Department will receive for FY 2002-03 and is expecting to receive for FY 2003-04. The report should also include a description of the grant, and line items in the Long Bill each grant is being used to finance. The report should match each block grant with all potential Long Bill line items that are eligible for funding.

This footnote violates the separation of powers by directing the activity of the department.

129. Footnote 198, page 222: Department of Public Health and Environment, Administration and Support — It is the intent of the General Assembly that the Department shall not exceed the total FTE authorization included in the Long Bill, and that any transfer of FTE between divisions within the Department shall be limited to federally-funded grants or programs and again shall not exceed the total authorized level. Any exception to this policy should be limited to federal funds and should be reported to the Joint Budget Committee, documenting the source and amount of funding, increase in number of FTE, activities to be performed, and anticipated time frame for continued receipt of new funding.

I vetoed this footnote last year. The footnote violates the separation of powers. The General Assembly does not have the authority to appropriate FTE or federal funds.

130. Footnote 201, page 223: Department of Public Health and Environment, Disease Control and Environmental Epidemiology Division, Special Purpose Disease Control Programs, Immunization — The Department is requested to provide, with its annual budget submission, detailed information regarding immunization services and funding. This information should include, but not be limited to: the amount and funding source available for each line item where funds are provided to support immunization services, including General Fund dollars, cash funds, cash funds exempt, and federal funds; a description of services provided relative to funding in each line item; an explanation of service delivery, including a distinction between public local or public county, public state, non-profit, and private providers; and the number of patients served in each applicable program.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

131. Footnote 203, page 223: Department of Public Health and Environment, Disease Control and Environmental Epidemiology Division, Special Purpose Disease Control Programs, Tuberculosis Control and Treatment — The Department is requested to provide, with its annual budget submission, a listing of counties which participate in tuberculosis control. Information should include, but not be limited to, the number of patients served for tuberculosis infection and active tuberculosis in each county, the total costs associated with all aspects of treatment and control by county, and a breakout of each revenue source. This information would account for counties' 20-percent match required in Section 25-4-513, C.R.S. This information should be provided for one actual year, the estimate year, and the request year.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 132. Footnote 209, page 224:** Department of Public Health and Environment, Health Promotion and Disease Prevention, Women's Health - Family Planning, Purchase of Services — The Department is requested to submit a report to the Joint Budget Committee with its annual budget submission. This report should include, but not be limited to, a detailed explanation of how state funds are expended by each contractor receiving any amount of state funds for the family planning program. Reporting should be completed for each contract organization, including public, private, and non-profit organizations, and should itemize expenditures for the previous fiscal year actual amounts, the current fiscal year estimated amounts, and the request fiscal year amounts.

This footnote violates the separation of powers by dictating the content and format of the executive budget request. I will instruct the department to comply with the intent of the footnote.

- 133. Footnote 210, page 224:** Department of Public Health and Environment, Family and Community Health Services Division, Women's Health – Family Planning, Purchase of Services — It is the intent of the General Assembly that a portion of the funds for this program be used for peer intervention efforts. The Department is requested to include the following information in its annual budget submission: A listing of peer intervention programs that have been awarded family planning dollars and the amount of funds given to each; and the number of teens that participated in listed peer intervention programs.

I vetoed this footnote last year. The footnote attempts to administer the appropriation and violates the separation of powers. I will direct the department to comply to the extent feasible.

- 134. Section 2, Part XVII, Department of Public Safety, (4) Division of Criminal Justice, Page 231:**

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Juvenile Diversion Programs --Victim/ Offender Mediation	\$200,000	\$200,000				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. While this may be a worthwhile program, it is voluntary for the offender. In addition, these are grant moneys and therefore recipients should not be using the money on an ongoing basis for programs.

135. Section 2, Part XVII, Department of Public Safety, (4) Division of Criminal Justice, Page 231:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Juvenile Diversion						
Programs – Restitution	\$1,000,000	\$1,000,000				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, there is an overlap in this program and other programs in the Division of Youth Corrections, where \$12.3 million is appropriated for juvenile offender diversion programs. Furthermore, these are grant programs and therefore are not used on an ongoing basis for programs. Finally, it is estimated that this \$1 million generates \$550,000 in actual restitution payments to victims.

136. Section 2, Part XVII, Department of Public Safety, (4) Division of Criminal Justice, Page 231:

	<u>Item & Subtotal</u>	<u>General Fund</u>	<u>General Fund Exempt</u>	<u>Cash Funds</u>	<u>Cash Funds Exempt</u>	<u>Federal Funds</u>
Juvenile Diversion						
Programs	\$1,283,702	\$1,283,702				

The primary reason for vetoing this line is the need to reduce General Fund expenditures. In addition, there is an overlap in this program and other programs in the Division of Youth Corrections, where \$12.3 million is appropriated for juvenile offender diversion programs. Furthermore, these are grant programs and therefore are not used on an ongoing basis.

137. Footnote 211, page 237: Department of Public Safety, Executive Director's Office, Witness Protection Program — It is the intent of the General Assembly that the Witness Protection Board apply to the Victims Assistance and Law Enforcement Advisory Board for a grant to fund the provision of services through the Witness Protection Program to eligible persons who are victims, as defined in Section 24-4.1-302(5), C.R.S. The Department of Public Safety is requested to report to the Joint Budget Committee by December 15, 2002, on the results of the grant application. In addition, this report should include a detailed summary of revenues and expenditures for FY 2000-01 and 2001-02 and projections for FY 2002-03.

The VALE Board has stated that witness protection is not a high priority for funding. Since FY 2000-01, the VALE Board has repeatedly denied the department's requests for witness protection dollars. Given the VALE Board's history regarding this issue, any attempts by the department to secure funding for witness protection will likely be fruitless and will not be the best use of staff resources.

138. Footnote 212, page 237: Department of Public Safety, Executive Director's Office, Colorado Integrated Criminal Justice Information System (CICJIS) — It is the intent of the General Assembly that with this appropriation the Colorado Bureau of Investigation in the Department of Public Safety, the Judicial Department, the Department of Corrections, the Division of Youth Corrections in the Department of Human Services, and the Colorado District Attorneys' Council should be able to improve the Colorado Integrated Criminal Justice Information System to achieve a match between felony court filings and the initial charges in at least eighty percent of the cases by December 31, 2002, and eighty-five percent of the cases by June 30, 2003.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. I understand the importance of increasing the disposition match rate and will direct the department to make improving the performance of the system a priority.

139. Footnote 215, page 237: Department of Public Safety, Colorado State Patrol, Aircraft Pool — It is the intent of the General Assembly that, of the appropriated amount for the Aircraft Pool, a portion of the funds shall be transferred to the Aircraft Engine Reserves Fund. The amount of the transfer shall be based on the number of flight hours per plane and should be sufficient to cover routine replacement of engines that exceed the recommended flight hours.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to follow legislative intent if practicable and to ensure safety concerns are taken into consideration.

140. Footnote 216, page 238: Department of Public Safety, Colorado State Patrol, Counter-drug Program — It is the intent of the General Assembly that, if federal funds for the administration of this program are ever reduced, the FTE will also be reduced, and workload will be absorbed with existing FTE in the Civilians line item.

I vetoed this footnote last year. This footnote violates the separation of powers. The General Assembly has no authority to appropriate or prescribe limits on non-match federal grants or FTE.

141. Footnote 218, page 238: Department of Public Safety, Division of Criminal Justice, Juvenile Justice and Delinquency Prevention, Juvenile Diversion Programs – Restitution; Juvenile Diversion Programs – Victim/Offender Mediation; and Juvenile Diversion Programs — The funds appropriated in these line items are intended solely for the purpose of disbursement to local agencies and programs in support of juvenile diversion programs. The Division shall not use any of these funds to pay for operating expenses incurred in the normal course of administering these program funds.

This footnote is immaterial since I also vetoed the associated funding.

142. Footnote 219, page 238: Department of Public Safety, Division of Criminal Justice, Juvenile Justice and Delinquency Prevention, Alternative to Placement Projects — It is the intent of the General Assembly that these funds be used for the purpose of competitively awarding to counties that submit proposals for multi-disciplinary, non-categorical programs to provide child welfare services to at-risk children and their families. It is the intent of the General

Assembly that such services include, but not be limited to, assessment, intervention, treatment, supervision, and shelter when and if appropriate.

This footnote violates the separation of powers by attempting to administer the appropriation.

- 143. Footnote 221, page 238:** Department of Public Safety, Colorado Bureau of Investigation — The Colorado Bureau of Investigation is requested to present its FY 2003-04 budget submission in the revised Long Bill format. All figures are requested to be presented in this format, including but not limited to, the two prior years' actual expenditures, allocated central appropriations, and revenue schedules.

This footnote violates the separation of powers by dictating the format of the budget request. The department is already in compliance with the intent of this footnote and there would be no benefit from requesting funds organized in an outdated and irrelevant way.

- 144. Footnote 222, page 238:** Department of Public Safety, Colorado Bureau of Investigation, Investigative Services — It is the intent of the General Assembly that a portion of the costs for genetic testing of sex offenders shall be paid from the Sex Offender Identification Fund created in Section 24-33.5-415.5, C.R.S., as soon as there are sufficient revenues in the fund. To this end, the General Assembly requests that the Colorado Bureau of Investigation submit a report to the Joint Budget Committee by November 1, 2002, on the revenues and balance of the sex offender identification fund and the cost of genetic testing of sex offenders. This report should also include an analysis of ways to increase the success of collecting reasonable testing fees from sex offenders, including but not limited to evaluating what methods could be implemented to increase revenues or reduce costs in order to make this program self-sufficient in future fiscal years.

The Sex Offender Identification Fund is maintained by the Judicial Department. It is not reasonable for the department to perform any study or analysis regarding revenue sources for a fund that is outside of its authority.

- 145. Footnote 227, page 259-260:** Department of Revenue, Information Technology Division — The Department of Revenue is requested to consistently reflect additional computer programming costs in fiscal notes for proposed legislation. The Department is requested to meet with the Legislative Council fiscal note staff and the Joint Budget Committee staff in an effort to identify potential solutions to this issue. The Department is requested to submit, with its November 2002 budget request for FY 2003-04, a memorandum explaining its policy with respect to reflecting additional computer programming costs in fiscal notes for legislation during the 2003 legislative session. The Department is requested to submit a negative supplemental request for any estimated savings associated with implementing legislation enacted during the 2002 legislative session.

This footnote violates the separation of powers by dictating the format and content of the executive budget request. I will direct the department to comply to the extent practicable.

- 146. Footnote 228, page 260:** Department of Revenue, Information Technology Division — The Department of Revenue is requested to submit a status report on the Department's major computer projects to the Joint Budget Committee with its November 1 budget request. The following projects should be included in this report: (1) Distributive Data Processing System Rewrite; (2) the Colorado Tax Application; and (3) the Lottery Division's Wang System Replacement. The status report should include a summary of any problems that have been encountered with revised time and cost estimates to complete the projects.

This footnote violates the separation of powers by directing the executive branch how to submit its budget request. I will direct the department to comply to the extent feasible within existing resources.

- 147. Footnote 231, page 260:** Department of Revenue, Motor Vehicle Business Group, Motorist Insurance Identification Database Program — The Department is requested to submit a progress report to the Joint Budget Committee on the implementation of this program by November 1, 2002. The report is requested to summarize: (a) the steps taken by the Department to implement the statutory provisions authorizing the Department to administratively suspend motor vehicle registrations for failure to provide proof of insurance; (b) the resources that have been used to suspend motor vehicle registrations; (c) the number of administrative suspensions from July 1, 2001 through September 30, 2002; and (d) the number of individuals who have failed to provide proof of insurance within 45 days of being requested to do so by the Department from July 1, 2001, through September 30, 2002.

This requirement constitutes excessive workload on the department. I will direct the department to comply to the extent feasible within existing resources.

- 148. Footnote 233, page 261:** Department of Revenue, Enforcement Business Group, State Lottery Division, Personal Services — It is the intent of the General Assembly that the Department of Revenue use its sales staff to distribute scratch lottery tickets to retail outlets. It is further the intent of the General Assembly that this function not be outsourced to any vendor. The Department is requested to submit a report to the General Assembly by September 1, 2002, delineating the costs and benefits of using vendors to distribute lottery products instead of using lottery staff for this purpose. The report is requested to include an analysis of the feasibility of this type of distribution process, and it should identify the monetary savings that could be achieved, including any reductions in FTE.

This footnote violates the separation of powers by attempting to administer the appropriation.

- 149. Footnote 235, page 261:** Department of Revenue, Enforcement Business Group, Division of Racing Events — The Department of Revenue is requested to provide a staffing report to the Joint Budget Committee by November 1, 2002, that justifies the staffing pattern for the Division. The report should include recommendations for eliminating positions and for reducing costs in the Division; summarize the work that is performed for each position in the Division; and contain a summary of performance measures for each year since 1993. The performance measures should include the following information for horse and dog events: the number of race performances; race days; race meets; inspections; citations, license applications received; licenses issued; the number of criminal investigations; the number of administrative investigations; and the number of simulcast investigations.

I vetoed this footnote last year. This footnote violates the separation of powers by attempting to administer the appropriation and FTE. I will direct the department to

comply with the intent of this footnote to the extent feasible within available resources.

- 150. Footnote 239, page 269:** Department of Transportation, County and Municipal Bridge Funds — It is the intent of the General Assembly that funds for this program be spent as soon as practicable. The Department is requested to provide a report to the Joint Budget Committee by November 1 of each year regarding the status of bridge projects funded under this program. For each project, the report shall contain information on the amount of the project grant, the date the funds were granted, and the status of project completion.

This footnote violates the separation of powers by attempting to administer the appropriation. I will instruct the department to follow the legislative intent of the footnote to the extent feasible.

VETO AND COMMENT ON CAPITAL ISSUES

As you are aware, capital construction projects over the last several years have been funded from excess General Fund reserves. Revenue forecasts do not show any excess General Fund reserves until FY 2005-06. Therefore, capital construction requests will be competing with operating budget requests for limited amounts of General Fund revenue in FY 2003-04. In order to minimize the impact of the lack of money for state services, I am vetoing all capital projects in their early stages of construction and the \$18 million general fund appropriation to the Capital Construction Fund within the six percent limit. In total, two projects consisting of \$5.37 million of FY 2002-03 State Funds and \$527,875 of university cash funds were vetoed. The specific projects vetoed and my reasoning are listed as follows.

- 151. Section 3, Capital Construction Appropriation, page 274:** (1) (d) In addition to any other appropriation made for the fiscal year beginning July 1, 2002, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the capital construction fund created in section 24-75-302, Colorado Revised Statutes, the sum of eighteen million eighty thousand six hundred and sixty six dollars (\$18,080,660).

I am vetoing this item because it places \$18,080,660 under the six percent limit for the purpose of maintaining the six percent General Fund appropriations base. However, as previously stated, there are not sufficient revenues to maintain such a spending base. General fund revenues will be down 13 percent in FY 2001-02, yet the General Assembly increased appropriations by 5.8 percent in that year and by another 7.3 percent in FY 2002-03. Without sufficient revenues, maintenance of this base merely delays necessary decisions to cut the budget and forces more dramatic cuts in services at a later date.

- 152. Section 3, Capital Construction Appropriation, Part III, Department of Higher Education, (2) Colorado State University, Capital Construction Project, page 278:**

	Item & <u>Subtotal</u>	Capital Construction <u>Funds Exempt</u>	Cash Funds <u>Exempt</u>
University Center for the Arts	\$1,777,875	\$1,250,000	\$527,875

I am vetoing this project for three reasons. First, House Bill 02-1438 cut approximately \$5.6 million of this project's appropriation in order to help balance the State's revenue shortfall. Second, because there is only a minimal amount of construction underway on this project, the remaining \$7.6 million of its FY 2001-02 appropriation is currently part of a Statewide freeze on capital construction spending. The freeze is applicable for all projects that have expended 25 percent or less of their appropriations. This freeze continues to be necessary to assure that the state meets its constitutional obligation to balance the budget. Finally, given the reduction in the project's appropriation and the large amount of unspent funds that are frozen, the original project plan and schedule can no longer be achieved. Therefore, this project can be delayed until a time when the State has sufficient revenues to maintain a balanced budget.

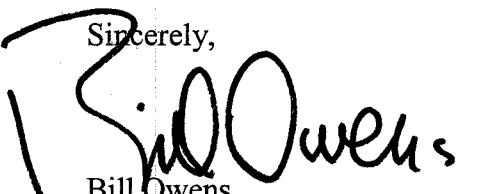
153. Section 3, Capital Construction Appropriation, Part III, Department of Higher Education, (4) University of Colorado at Colorado Springs, Capital Construction Projects, page 279:

	<u>Item & Subtotal</u>	<u>Capital Construction Funds Exempt</u>
Main and Cragmor Halls	\$4,120,000	\$4,120,000

This money is for the second phase of this project. Funding for the renovation of Main Hall has already been appropriated and that project is well underway. The funding in the current Long Bill applies to Cragmor Hall, the renovation of which has only very recently begun. Because it is in its early stage of construction, this project can be delayed until a time when the state has sufficient revenues to resume capital projects.

The actions I am taking are based upon legal opinions and court decisions regarding inclusions in the general appropriations bill.

Sincerely,


Bill Owens
Governor